



CITY OF ALAMEDA • CALIFORNIA

SPECIAL MEETING OF THE CITY COUNCIL
TUESDAY - - - JANUARY 18, 2005 - - - 6:30 P.M.

Time: Tuesday, January 18, 2005, 6:30 P.M.

Place: **City Council Chambers Conference Room**, City Hall, corner
of Santa Clara Avenue and Oak Street.

Agenda:

1. Roll Call.
2. Public Comment on Agenda Items Only.

Anyone wishing to address the Council on agenda items only,
may speak for a maximum of 3 minutes per item.

3. Adjournment to Closed Session to consider:

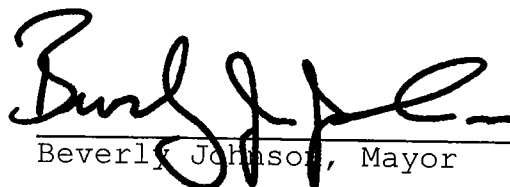
3-A. CONFERENCE WITH LABOR NEGOTIATORS

Agency Negotiators: Human Resources Director and Craig
Jory.

Employee Organizations: Management and Confidential
Employees Association and Police
Association Non-Sworn.

4. Announcement of Action Taken in Closed Session, if any.

Adjournment


Beverly Johnson, Mayor



CITY OF ALAMEDA • CALIFORNIA

SPECIAL MEETING OF THE COMMUNITY IMPROVEMENT COMMISSION
TUESDAY - - - JANUARY 18, 2005 - - - 6:55 P.M.

Time: Tuesday, January 18, 2005, 6:55 P.M.

Place: **City Council Chambers Conference Room**, City Hall, corner
of Santa Clara Avenue and Oak Street.

Agenda:

1. Roll Call.
2. Public Comment on Agenda Items Only.

Anyone wishing to address the Commission on agenda items only,
may speak for a maximum of 3 minutes per item.

3. Adjournment to Closed Session to consider:

3-A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to subdivision (c) of
Section 54956.9.

Number of cases: One.

4. Announcement of Action Taken in Closed Session, if any.

Adjournment


Beverly Johnson, Chair



CITY OF ALAMEDA • CALIFORNIA

IF YOU WISH TO ADDRESS THE COMMISSION:

1. Please file a speaker's slip with the Deputy City Clerk and upon recognition by the Chair, approach the podium and state your name; speakers are limited to three (3) minutes per item.
2. Lengthy testimony should be submitted in writing and only a summary of pertinent points presented verbally.
3. Applause and demonstration are prohibited during Commission meetings.

SPECIAL MEETING OF COMMUNITY IMPROVEMENT COMMISSION TUESDAY - - - JANUARY 18, 2005 - - - 7:25 P.M.

Location: **City Council Chambers**, City Hall, corner of Santa Clara Avenue and Oak Street.

Public Participation

Anyone wishing to address the Commission on agenda items or business introduced by Council may speak for a maximum of 3 minutes per agenda item when the subject is before the Commission. Please file a speaker's slip with the Deputy City Clerk if you wish to speak on an agenda item.

PLEDGE OF ALLEGIANCE

ROLL CALL

MINUTES

Minutes of the Special Community Improvement Commission (CIC) Meetings of December 7, 2004; the Special Joint City Council and CIC Meeting of December 21, 2004; and the Special Joint City Council, CIC and Alameda Reuse and Redevelopment Authority Meeting of January 5, 2005.

AGENDA ITEM

1. Recommendation to approve a contract with Michael Stanton Architecture for design review services for the proposed Historic Alameda Theatre, Parking Structure and Cinema Multiplex Project in an amount not to exceed \$92,500.

ADJOURNMENT

Beverly Johnson, Chair
Community Improvement Commission



CITY OF ALAMEDA • CALIFORNIA

IF YOU WISH TO ADDRESS THE COUNCIL:

1. Please file a speaker's slip with the Deputy City Clerk and upon recognition by the Mayor, approach the podium and state your name; speakers are limited to three (3) minutes per item.
2. Lengthy testimony should be submitted in writing and only a summary of pertinent points presented verbally.
3. Applause and demonstration are prohibited during Council meetings.

AGENDA - - - - - REGULAR MEETING OF THE CITY COUNCIL
TUESDAY - - - - - JANUARY 18, 2005 - - - - 7:30 P.M.

[Note: Regular Council Meeting convenes at 7:30 p.m., **City Hall, Council Chambers, corner of Santa Clara Ave and Oak St.]**

The Order of Business for City Council Meeting is as follows:

1. Roll Call
2. Agenda Changes
3. Proclamations, Special Orders of the Day and Announcements
4. Consent Calendar
5. Agenda Items
6. Oral Communications, Non-Agenda (Public Comment)
7. Council Communications (Communications from Council)
8. Adjournment

Public Participation

Anyone wishing to address the Council on agenda items or business introduced by Councilmembers may speak for a maximum of 3 minutes per agenda item when the subject is before Council. Please file a speaker's slip with the Deputy City Clerk if you wish to address the City Council.

SPECIAL MEETING OF THE CITY COUNCIL 6:30 P.M.
CITY COUNCIL CHAMBERS CONFERENCE ROOM
Separate Agenda (Closed Session)

SPECIAL MEETING OF THE COMMUNITY IMPROVEMENT 6:55 P.M.
COMMISSION, CITY COUNCIL CHAMBERS CONFERENCE ROOM
Separate Agenda (Closed Session)

SPECIAL MEETING OF THE COMMUNITY IMPROVEMENT 7:25 P.M.
COMMISSION, CITY COUNCIL CHAMBERS
Separate Agenda

1. ROLL CALL - City Council

[Note: Mayor Johnson will be teleconferencing from The Capital Hilton, 16th and K Street NW, Washington DC]

2. AGENDA CHANGES

3. PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

3-A. Proclamation declaring January as Blood Donor Month in the City of Alameda.

3-B. Presentation by Peter Simon, Dean, College of Alameda and Liz Sullivan, Organizer with Oakland Community Organizations regarding the proposed Oakland Aviation High School at the Oakland Airport.

3-C. Presentation of letters of appreciation to members of the Alameda Police Department by NC1 Danielle Carter, Recruiter, Naval Reserve Recruiting Area Pacific.

4. CONSENT CALENDAR

Consent Calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for removal for discussion or explanation is received from the Council or a member of the public.

4-A. Minutes of the Special Joint City Council and Community Improvement Commission (CIC) Meeting of December 21, 2004; the Special and Regular City Council Meetings held on January 4, 2005; and the Special Joint City Council, CIC and Alameda Reuse and Redevelopment Authority Meeting of January 5, 2005.

4-B. Bills for ratification.

5. REGULAR AGENDA ITEMS

5-A. Adoption of Resolution Opposing the Proposed Lower Lake Rancheria-Koi Nation Casino in the City of Oakland.

5-B. Public Hearing on Housing and Community Development needs for Community Development Block Grant Annual and Five-Year Plans.

5-C. Public Hearing to consider an Appeal of the Planning Board's approval of Design Review, DR04-0101, to allow a 5,300 square foot new commercial building (veterinary hospital) to replace approximately 2,000 square feet of commercial buildings, with a parking lot expansion to 23 spaces; **and adoption of related resolution.** The property is located at 1410 Everett Street in the C-C Community Commercial and R-5 Hotel Residential Zoning Districts. Appellant: J. Barni. **[To be continued to February 1, 2005]**

5-D. Public Hearing to consider Amendment to Zoning Map to rezone approximately 7,800 square feet (1/5 acre) at 1410 Everett Street, APN 070-170-15, from R-5 Hotel Residential to C-C Community Commercial; and

- Introduction of Ordinance Amending the Zoning Map to Designate APN 070-170-15, Approximately One-Fifth Acre, from R-5 Hotel Residential to C-C Community Commercial, on Central Avenue at Everett Street. **[To be continued to February 1, 2005]**

5-E. Public Hearing to consider an Appeal of the Planning Board's denial of Variances, V04-0006, 0007, 0008 and 0010, and denial of Major Design Review, DR04-0026, for all development projects at 3017 Marina Drive; **and adoption of related resolution.** The site is located within an R-1, Single-Family Residential Zoning District. The development project includes expansion of the residence into the estuary and installation of rear yard decks. Approval is being sought for the following: 1) Variance to AMC Subsection 30-4.1(d)(3) (Maximum Main Building Coverage exceeding 48%); 2) Variance to AMC Subsection 30-4.1(d)(7) and Section 30-2 (Rear Yard) because the building extends across the rear property line into the estuary; 3) Variance to AMC Subsection 30-5.7(a) (Roof Eaves) and 30-5.7(d) (Bay Windows) because the roof eaves above the bay windows encroach to within 3 feet from the side property line and bay windows are not permitted to encroach into side yards; 4) Variance to AMC Subsection 30-5.7(c)(1) (Rear Yard), Subsection 30-2 (Definitions) (Yard-Rear) and Subsection 30-4.1(d)(7) (Rear Yard) because decks over 36-inches in height extend into the required side and rear yard setbacks; 5) Variance to AMC Subsection 30-5.14(c) (Barrier Heights) because the windcreens around the patios exceed the maximum permitted 8-foot height. The Planning Board found that the Variance for the bay window encroachment be withdrawn because encroachment is in compliance, subject to Design Review approval. Applicant/Appellant: Rita Mohlen. **[To be noticed for a later date.]**

5-F. Report regarding Corrective and Preventive Plan in response to the Memorandum on Internal Control Structure.

5-G. Discussion regarding options for relocation assistance legislation and a temporary moratorium on all new construction, demolition and condominium conversion in the "West End Atlantic Corridor Area" (bounded by Webster Street, Main Street, Pacific Avenue and Ralph J. Appezzato Memorial Parkway).

5-H. Final Passage of Ordinance Amending the Alameda Municipal Code by Amending Subsection 3-28.9 (Payment In-Lieu of Taxes - PILOT); Adding a New Subsection 3-28.10 (Return on Investment in Enterprise Funds) of Section 3-28 (Payment of Taxes) of Chapter III (Finance and Taxation) and Adding a New Subsection 18-4.10 (Exemptions) of Section 18-4 (Sewer Service Charge) of Article I (Sewers) of Chapter XVIII (Sewer and Water).

5-I. Final Passage of Ordinance Amending the Alameda Municipal Code by Adding a New Section 3-91 (City of Alameda Community Benefit Assessment Procedure Code) to Article VI (City of Alameda Improvement Procedure Code) of Chapter III (Finance and Taxation).

6. ORAL COMMUNICATIONS, NON-AGENDA (Public Comment)

Any person may address the Council in regard to any matter over which the Council has jurisdiction or of which it may take cognizance, that is not on the agenda.

7. COUNCIL COMMUNICATIONS (Communications from Council)

8. ADJOURNMENT

- For use in preparing the Official Record, speakers reading a written statement are invited to submit a copy to the City Clerk at the meeting or e-mail to: lweisige@ci.alameda.ca.us
- Sign language interpreters will be available on request. Please contact the City Clerk at 747-4800 or TDD number 522-7538 at least 72 hours prior to the Meeting to request an interpreter.
- Equipment for the hearing impaired is available for public use. For assistance, please contact the City Clerk at 747-4800 or TDD number 522-7538 either prior to, or at, the Council Meeting.
- Accessible seating for persons with disabilities, including those using wheelchairs, is available.
- Minutes of the meeting available in enlarged print.
- Audio Tapes of the meeting are available upon request.
- Please contact the City Clerk at 747-4800 or TDD number 522-7538 at least 48 hours prior to the meeting to request agenda materials in an alternative format, or any other reasonable accommodation that may be necessary to participate in and enjoy the benefits of the meeting.

CITY OF ALAMEDA

Memorandum

Date: January 11, 2005

To: Honorable Mayor
and Councilmembers

From: William C. Norton
Interim City Manager

Re: Regular and Special City Council Meetings and Special Community
Improvement Commission Meetings of January 18, 2004

Transmitted are the agendas and related materials for the Regular and Special City Council Meetings and the Special Community Improvement Commission Meetings of January 18, 2004.

SPECIAL MEETING OF THE COMMUNITY IMPROVEMENT COMMISSION

MINUTES

Minutes of the Special Community Improvement Commission (CIC) Meetings of December 7, 2004; the Special Joint City Council and CIC Meeting of December 21, 2004; and the Special Joint City Council, CIC and Alameda Reuse and Redevelopment Authority Meeting of January 5, 2005.

It is recommended that the CIC accept the minutes of the Special Community Improvement Commission (CIC) meetings of December 7, 2004; the Special Joint City Council and CIC meeting of December 21, 2004; and the Special Joint City Council, CIC and Alameda Reuse and Redevelopment Authority meeting of January 5, 2005.

AGENDA ITEM

1. Recommendation to approve a contract with Michael Stanton Architecture for design review services for the proposed Historic Alameda Theatre, Parking Structure and Cinema Multiplex Project in an amount not to exceed \$92,500.

It is recommended that the City Council approve a \$92,500 contract with Michael Stanton Architecture for design review services associated with the proposed Alameda Theatre and Parking Structure project. The contract will continue the advancement of the master urban design and the community participation process,

Dedicated to Excellence, Committed to Service

and will finalize the components for the design criteria for the proposed parking structure.

CITY COUNCIL AGENDA

1. ROLL CALL - City Council
2. AGENDA CHANGES
3. PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS
- 3-A. Proclamation declaring January as Blood Donor Month in the City of Alameda.

At this time a proclamation will be presented to Beth Wren, Donor Recruitment Account Manager, American Red Cross, declaring January as Blood Donor Month in the City of Alameda.

- 3-B. Presentation by Peter Simon, Dean, College of Alameda and Liz Sullivan, Organizer with Oakland Community Organizations regarding the proposed Oakland Aviation High School at the Oakland Airport.

At this time Peter Simon, Dean of the College of Alameda and Liz Sullivan, Organizer with Oakland Community Organizations will give a presentation regarding the proposed Oakland Aviation High School which would be located on the North Field of the Oakland Airport, adjacent to the College of Alameda Aviation Facility.

- 3-C. Presentation of letters of appreciation to members of the Alameda Police Department by NC1 Danielle Carter, Recruiter, Naval Reserve Recruiting Area Pacific.

At this time letters of appreciation will be presented to members of the Alameda Police Department by NC1 Danielle Carter, Recruiter for the Naval Reserve Recruiting Area Pacific, thanking them for their time and efforts in support of Naval Reserve recruiting by allowing Naval Reserve Recruiters to present the opportunities offered by the Naval Reserve to APD employees.

CONSENT CALENDAR

- 4-A. Minutes of the Special Joint City Council and Community Improvement Commission (CIC) Meeting of December 21, 2004; the Special and Regular City Council Meetings held on January 4, 2005; and the Special Joint City Council, CIC and Alameda Reuse and Redevelopment Authority Meeting of January 5, 2005.

The City Clerk has presented for approval the Minutes of the Special Joint City Council and Community Improvement Commission (CIC) Meeting of December 21,

2004; the Special and Regular City Council Meetings held on January 4, 2005; and the Special Joint City Council, CIC and Alameda Reuse and Redevelopment Authority Meeting of January 5, 2005.

4-B. Bills for ratification.

REGULAR AGENDA ITEMS

5-A. Adoption of Resolution Opposing the Proposed Lower Lake Rancheria-Koi Nation Casino in the City of Oakland.

It is recommended that Council pass a resolution opposing the proposed Lower Lake Rancheria-Koi Nation casino in the City of Oakland. Both the Alameda County Board of Supervisors and the Oakland City Council have passed resolutions in opposition to this proposed casino.

5-B. Public Hearing on Housing and Community Development needs for Community Development Block Grant Annual and Five-Year Plans.

It is recommended that Council proceed with a public hearing on current and anticipated housing and community development needs. After the public portion of the hearing, Council members may wish to identify additional needs that have not been noted in citizens' comments.

5-C. Public Hearing to consider an Appeal of the Planning Board's approval of Design Review, DR04-0101, to allow a 5,300 square foot new commercial building (veterinary hospital) to replace approximately 2,000 square feet of commercial buildings, with a parking lot expansion to 23 spaces; **and adoption of related resolution.** The property is located at 1410 Everett Street in the C-C Community Commercial and R-5 Hotel Residential Zoning Districts. Appellant: J. Barni. **[To be continued to February 1, 2005]**

Due to incomplete public notification, this item will be moved to the February 1, 2005 City Council meeting.

5-D. Public Hearing to consider Amendment to Zoning Map to rezone approximately 7,800 square feet (1/5 acre) at 1410 Everett Street, APN 070-170-15, from R-5 Hotel Residential to C-C Community Commercial; and

- Introduction of Ordinance Amending the Zoning Map to Designate APN 070-170-15, Approximately One-Fifth Acre, from R-5 Hotel Residential to C-C Community Commercial, on Central Avenue at Everett Street. **[To be continued to February 1, 2005]**

Due to incomplete public notification, this item will be moved to the February 1, 2005 City Council meeting.

- 5-E. Public Hearing to consider an Appeal of the Planning Board's denial of Variances, V04-0006, 0007, 0008 and 0010, and denial of Major Design Review, DR04-0026, for all development projects at 3017 Marina Drive; **and adoption of related resolution.** The site is located within an R-1, Single-Family Residential Zoning District. The development project includes expansion of the residence into the estuary and installation of rear yard decks. Approval is being sought for the following: 1) Variance to AMC Subsection 30-4.1(d)(3) (Maximum Main Building Coverage exceeding 48%); 2) Variance to AMC Subsection 30-4.1(d)(7) and Section 30-2 (Rear Yard) because the building extends across the rear property line into the estuary; 3) Variance to AMC Subsection 30-5.7(a) (Roof Eaves) and 30-5.7(d) (Bay Windows) because the roof eaves above the bay windows encroach to within 3 feet from the side property line and bay windows are not permitted to encroach into side yards; 4) Variance to AMC Subsection 30-5.7(c)(1) (Rear Yard), Subsection 30-2 (Definitions) (Yard-Rear) and Subsection 30-4.1(d)(7) (Rear Yard) because decks over 36-inches in height extend into the required side and rear yard setbacks; 5) Variance to AMC Subsection 30-5.14(c) (Barrier Heights) because the windscreens around the patios exceed the maximum permitted 8-foot height. The Planning Board found that the Variance for the bay window encroachment be withdrawn because encroachment is in compliance, subject to Design Review approval. Applicant/Appellant: Rita Mohlen. **[To be noticed for a later date.]**

It is recommended that this hearing be tabled and removed from the Council agenda. When both the appellant and City agree that the information and analysis is complete, a new public notice will be mailed.

- 5-F. Report regarding Corrective and Preventive Plan in response to the Memorandum on Internal Control Structure.

Staff has responded to the Memorandum on Internal Control Structure which was prepared by the City's audit firm. The attached staff response includes an analysis of each issue and curative and preventive plans. It is recommended that Council accept this report as submitted.

- 5-G. Discussion regarding options for relocation assistance legislation and a temporary moratorium on all new construction, demolition and condominium conversion in the

"West End Atlantic Corridor Area" (bounded by Webster Street, Main Street, Pacific Avenue and Ralph J. Appezato Memorial Parkway).

At this time there will be discussion regarding options for relocation assistance legislation and a temporary moratorium on all new construction, demolition and condominium conversion in the "West End Atlantic Corridor Area." This area is bounded by Webster Street, Main Street, Pacific Avenue and Ralph J. Appezato Memorial Parkway.

- 5-H. Final Passage of Ordinance Amending the Alameda Municipal Code by Amending Subsection 3-28.9 (Payment In-Lieu of Taxes - PILOT); Adding a New Subsection 3-28.10 (Return on Investment in Enterprise Funds) of Section 3-28 (Payment of Taxes) of Chapter III (Finance and Taxation) and Adding a New Subsection 18-4.10 (Exemptions) of Section 18-4 (Sewer Service Charge) of Article I (Sewers) of Chapter XVIII (Sewer and Water).

This ordinance amends the AMC regarding sewer services charges and payments in lieu of taxes for other enterprise funds. It is recommended that this action be reviewed after the two-year budget cycle to determine the need to continue the collection of the added funds.

- 5-I. Final Passage of Ordinance Amending the Alameda Municipal Code by Adding a New Section 3-91 (City of Alameda Community Benefit Assessment Procedure Code) to Article VI (City of Alameda Improvement Procedure Code) of Chapter III (Finance and Taxation).

This ordinance will enable the creation of a property-based improvement district in the West Alameda Business District.

UNAPPROVED MINUTES

MINUTES OF THE SPECIAL COMMUNITY IMPROVEMENT COMMISSION MEETING
TUESDAY - - - DECEMBER 7, 2004 - - - 6:35 P.M.

Chair Johnson convened the Special Meeting at 6:40 p.m.

Roll Call - Present: Commissioners Daysog, Gilmore, Kerr,
Matarrese and Chair Johnson - 5.

Absent: None.

The Special Meeting was adjourned to Closed Session to consider:

(04-____) Conference with Real Property Negotiator; Property: Alameda Theater; Negotiating Parties: City of Alameda, Community Improvement Commission and Cocores Development Company; Under Negotiation: Prices and terms.

(04-____) Conference with Real Property Negotiator; Property: 2315-2323 Central Avenue; Negotiating Parties: Movie TECS, Inc.; Under Negotiation: Price and terms.

Following the Closed Session, the Special Meeting was reconvened and Chair Johnson announced that the Commission obtained briefing and no action was taken.

Adjournment

There being no further business, Chair Johnson adjourned the Special Meeting at 7:40 p.m.

Respectfully submitted,

Lara Weisiger
Secretary, Community Improvement
Commission

The agenda for this meeting was posted in accordance with the Brown Act.

UNAPPROVED MINUTES

MINUTES OF THE SPECIAL COMMUNITY IMPROVEMENT COMMISSION MEETING
TUESDAY - - - DECEMBER 7, 2004 - - - 7:25 P.M.

Chair Johnson convened the Special Meeting at 7:59 p.m.

ROLL CALL - Present: Commissioners Daysog, Gilmore, Kerr,
Matarrese and Chair Johnson.

Absent: None.

CONSENT CALENDAR

Commissioner Kerr moved approval of the Consent Calendar.

Commissioner Gilmore seconded the motion, which carried by unanimous voice vote - 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*04-) Minutes of the Special Community Improvement Commission Meeting of November 16, 2004. Approved.

(*04-) Recommendation to approve the Amended Contract with Architectural Resources Group, Inc. by increasing the Contract amount an additional \$320,000 to provide additional pre-planning services for the proposed Historic Alameda Theatre/Cinema Multiplex Parking Structure Project. Accepted.

(*04-) Recommendation to approve the Amended Contract with Keyser Marston Associates, Inc. by increasing the Contract amount an additional \$50,000 to provide additional pre-planning services for the proposed Historic Alameda Theatre/Cinema Multiplex Parking Structure Project. Accepted.

AGENDA ITEM

None.

ADJOURNMENT

There being no further business, Chair Johnson adjourned the Special Meeting at 8:00 p.m.

Respectfully submitted,

Lara Weisiger
Secretary

The agenda for this meeting was posted in accordance with the Brown Act.

UNAPPROVED MINUTES
MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND
COMMUNITY IMPROVEMENT COMMISSION MEETING
TUESDAY - - - DECEMBER 21, 2004 - - - 6:30 P.M.

Mayor/Chair Johnson convened the Special Joint Meeting at 7:56 p.m. Girl Scout Troop #414 led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers/Commissioners Daysog,
Gilmore, Kerr, Matarrese and Mayor/Chair
Johnson - 5.

Absent: None.

AGENDA ITEMS

(04- CC/04- CIC) Recommendation to award Contract to S.J. Amoroso for the construction of the new Alameda Main Library and to authorize appropriation of supplemental funding.

Honora Murphy, Library Building Team Chair, thanked the Council for their hard work on the Library.

Gary McAfee, Alameda, stated that money is being overspent on the Library; a new library is not needed and that information is not being made available to the public.

Mayor/Chair Johnson stated that all information is made available to the public.

Marilyn Ezzy Ashcraft, Library Building Team, stated that the Library Building Team should be included in pursuing additional sources of LEED funding.

Councilmember/Commissioner Matarrese thanked staff for the report highlighting the potential LEED certification funding from the Alameda County Waste Management Authority; moved approval of the staff recommendation.

Councilmember/Commission Gilmore seconded the motion.

Under discussion, Mayor/Chair Johnson thanked staff, the City Manager, the Assistant City Manager and the Project Manager for all their hard work.

Vice Mayor/Commissioner Daysog thanked staff for their efforts throughout the project; stated construction budget is down to \$17.4 million; inquired whether other funding options were available rather than the additional Measure O funds, which could be used for the branch libraries.

The Project Manager responded there would still be \$1,499,875 in Measure O funds remaining for branch improvements.

Mayor/Chair Johnson thanked the Library Building Team for their hard work on the project.

Councilmember/Commissioner Matarrese stated the Library is a necessity for the City and will be a stunning public monument; the Library is the will of the super majority of the City.

On the call for the question, the motion carried by the following voice vote: Ayes: Councilmembers/Commissioners Gilmore, Kerr, Matarrese and Mayor/Chair Johnson - 4. Abstention: Vice Mayor/Commissioner Daysog - 1.

(04- CIC) Recommendation to adopt Community Improvement Commission audit, authorize transmittal of the Community Improvement Commission's Annual Report to the State Controller's Office and the City Council, and accept Annual Report; and

(04- CC) Recommendation to accept the Community Improvement Commission (CIC) Audit and Annual Report.

Councilmember/Commissioner Kerr inquired what was the amount of the 2004 capital expenditures, to which the Finance Director responded \$6,239,000.

Councilmember/Commissioner Gilmore moved approval of the staff recommendation.

Councilmember/Commission Matarrese seconded the motion, which carried by unanimous voice vote -5.

ADJOURNMENT

There being no further business, Mayor/Chair Johnson adjourned the Special Joint Meeting at 8:19 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, Community Improvement
Commission

The agenda for this meeting was posted in accordance with the Brown Act.

UNAPPROVED MINUTES
MINUTES OF THE SPECIAL JOINT CITY COUNCIL,
COMMUNITY IMPROVEMENT COMMISSION, AND
ALAMEDA REUSE AND REDEVELOPMENT AUTHORITY MEETING
WEDNESDAY - - - JANUARY 5, 2005 - - - 5:31 P.M.

Mayor/Chair Johnson convened the Special Joint Meeting at 6:05 p.m.

Roll Call - Present: Councilmembers/Commissioners/Authority
Members Daysog, deHaan, Gilmore,
Matarrese, and Mayor/Chair Johnson - 5.

Absent: None.

The Special Joint Meeting was adjourned to Closed Session to consider:

(05- CC/05- CIC) Conference with Real Property Negotiators;
Property: Alameda Naval Air Station, Fleet Industrial Supply
Center; Negotiating Parties: City of Alameda, Community Improvement
Commission, Alameda Reuse and Redevelopment Authority, Alameda
Point Collaborative; Under Negotiations: Price and terms.

Following the Closed session, the Special Meeting was reconvened
and Mayor/Chair Johnson announced that the
Council/Commission/Authority gave direction to follow the
negotiating approach recommended by the real property negotiator.

Adjournment

There being no further business, Mayor/Chair Johnson adjourned
the Special Meeting at 7:10 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, Community Improvement
Commission

The agenda for this meeting was posted in accordance with the Brown
Act.

CITY OF ALAMEDA
MEMORANDUM

To: Honorable Chair and
Members of the Community Improvement Commission

From: William C. Norton
Interim Executive Director

Date: January 5, 2005

Re: Recommendation to Approve a Contract with Michael Stanton Architecture (MSA) for Design Review Services for the Proposed Historic Alameda Theatre, Parking Structure, and Cinema Multiplex Project for an Amount Not to Exceed \$92,500

BACKGROUND

The Community Improvement Commission (CIC) has previously contracted with Michael Stanton Architecture (MSA) for pre-planning services for the proposed Historic Alameda Theatre, parking structure and cinema multiplex project. MSA provided professional services for all three aspects of the project and, as a member of the design team, aided with cost estimating and value engineering. The proposed contract (on file with the City Clerk) is for the continued advancement of the master urban design, community participation process, and to finalize the components for the design criteria for the proposed parking structure.

DISCUSSION/ANALYSIS

The current phase of work by MSA has been completed and this contract is to advance the design, approvals and construction of the three components of the project. The contract scope includes work tasks for the ongoing urban design consultant and as design architect for the proposed new parking structure as outlined below:

Ongoing Urban Design Consultation

1. MSA will attend meetings and continue to coordinate with MovieTECS and Architectural Resources Group (ARG), and provide requested professional services as requested by City staff.
2. MSA will function as the Consultant Architect for the new cinema multiplex. The responsibilities of the Consultant Architect will be to assist with design input from the community to develop the criteria for design for the MovieTECS architect.
3. MSA will assist the City in presenting the project to the Planning Board and Historical Advisory Board and other entities as requested.
4. MSA will assist in on-going discussion of the proposed development with the Building Division to review key code issues involved in these interconnected three structures.

5. MSA will summarize all conclusions in drawings and a report to the City of Alameda, MovieTECS, and ARG.
6. MSA will continue to attend meetings, review submittals from ARG and the MovieTECS architect, and provide other services as requested.

Design Architect Role for New Parking Structure

1. MSA will function as the Design Architect for the new Parking structure. The responsibilities of the Design Architect will include design development and materials selection (including lighting, landscaping, and urban design features. This work will provide a sufficient description of the building for use by the City of Alameda in the preparation of the RFP for the design/build team for the new parking structure.
2. MSA will meet with the City of Alameda Departments to resolve any operational issues of the new parking structure that pertain to the design.
3. MSA will assist in the review of the responses to the RFP. MSA will monitor the ongoing design work of the design/build team to insure conformity to the design documents for the new parking structure, review required submittals, and assist the City in responding to other design related issues as needed.

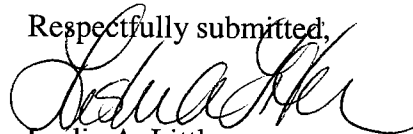
FISCAL IMPACT

The contract is for an amount not to exceed \$97,500. This contract will be funded by the Merged Areas Bond Issuance and would not impact the General Fund.

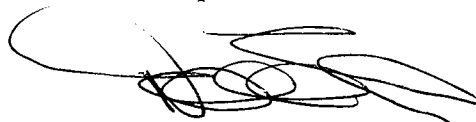
RECOMMENDATION

The Executive Director recommends that the CIC approve a contract with Michael Stanton Architecture (MSA) for design review services for the proposed Historic Alameda Theatre, Parking Structure, and Cinema Multiplex Project for an amount not to exceed \$92,500.

Respectfully submitted,



Leslie A. Little
Development Services Director



By: Dorene E. Soto
Manager, Business Development Division

WCN/LAL/DES:rv

Dedicated to Excellence, Committed to Service

Proclamation

Whereas, in Northern California, the American Red Cross provides 130,000 units of blood per year for the protection of patients, and there is a need for additional healthy, regular volunteer donors to join the ranks of those who already give of themselves so generously; and

Whereas, every two seconds someone in the United States needs blood and more than 38,000 blood donations are needed every day. One out of every 10 people admitted in a hospital needs blood and the demand for blood transfusions is growing faster than donations; and

Whereas, approximately sixty percent of the U.S. population is eligible to give blood; however only five percent do in any given year. A healthy donor may donate red blood cells every 56 days and may donate platelets as few as three days apart; and

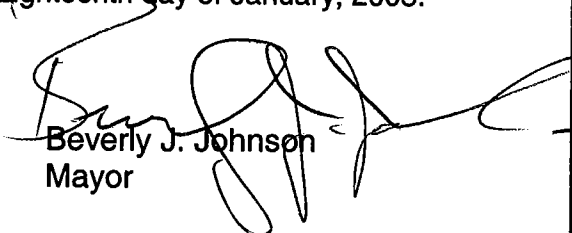
Whereas, donating blood is a safe process which takes only one hour. One donation can help save the lives of up to three people.

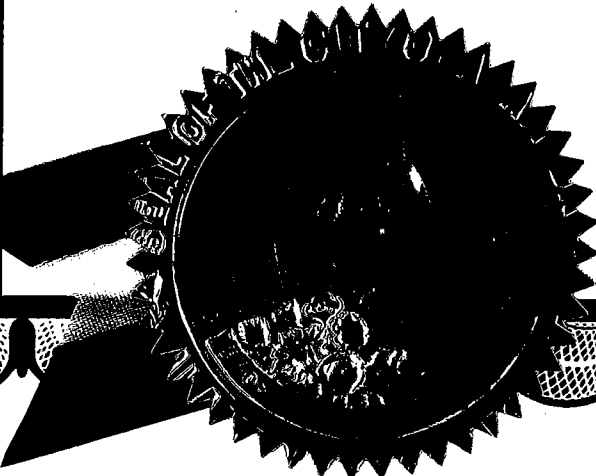
Now therefore, I, Beverly Johnson, Mayor of the City of Alameda, hereby proclaim the month of January as

Volunteer Blood Donor Month

in the City of Alameda and urge all citizens to pay tribute to those among us who donate for others in need. I urge citizens in good health to donate regularly. I also urge all civic and service organizations and businesses, if they have not already done so, to form blood donor groups to provide blood for others.

IN WITNESS WHEREOF I have here set my hand and caused the seal of the City of Alameda to be affixed this ~~Eighteenth~~ day of January, 2005.


Beverly J. Johnson
Mayor



UNAPPROVED MINUTES
MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND
COMMUNITY IMPROVEMENT COMMISSION MEETING
TUESDAY - - - DECEMBER 21, 2004 - - - 6:30 P.M.

Mayor/Chair Johnson convened the Special Joint Meeting at 7:56 p.m. Girl Scout Troop #414 led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers/Commissioners Daysog, Gilmore, Kerr, Matarrese and Mayor/Chair Johnson - 5.

Absent: None.

AGENDA ITEMS

(04- CC/04- CIC) Recommendation to award Contract to S.J. Amoroso for the construction of the new Alameda Main Library and to authorize appropriation of supplemental funding.

Honora Murphy, Library Building Team Chair, thanked the Council for their hard work on the Library.

Gary McAfee, Alameda, stated that money is being overspent on the Library; a new library is not needed and that information is not being made available to the public.

Mayor/Chair Johnson stated that all information is made available to the public.

Marilyn Ezzy Ashcraft, Library Building Team, stated that the Library Building Team should be included in pursuing additional sources of LEED funding.

Councilmember/Commissioner Matarrese thanked staff for the report highlighting the potential LEED certification funding from the Alameda County Waste Management Authority; moved approval of the staff recommendation.

Councilmember/Commission Gilmore seconded the motion.

Under discussion, Mayor/Chair Johnson thanked staff, the City Manager, the Assistant City Manager and the Project Manager for all their hard work.

Vice Mayor/Commissioner Daysog thanked staff for their efforts throughout the project; stated construction budget is down to \$17.4 million; inquired whether other funding options were available rather than the additional Measure O funds, which could be used for the branch libraries.

The Project Manager responded there would still be \$1,499,875 in Measure O funds remaining for branch improvements.

Mayor/Chair Johnson thanked the Library Building Team for their hard work on the project.

Councilmember/Commissioner Matarrese stated the Library is a necessity for the City and will be a stunning public monument; the Library is the will of the super majority of the City.

On the call for the question, the motion carried by the following voice vote: Ayes: Councilmembers/Commissioners Gilmore, Kerr, Matarrese and Mayor/Chair Johnson - 4. Abstention: Vice Mayor/Commissioner Daysog - 1.

(04- CIC) Recommendation to adopt Community Improvement Commission audit, authorize transmittal of the Community Improvement Commission's Annual Report to the State Controller's Office and the City Council, and accept Annual Report; and

(04- CC) Recommendation to accept the Community Improvement Commission (CIC) Audit and Annual Report.

Councilmember/Commissioner Kerr inquired what was the amount of the 2004 capital expenditures, to which the Finance Director responded \$6,239,000.

Councilmember/Commissioner Gilmore moved approval of the staff recommendation.

Councilmember/Commission Matarrese seconded the motion, which carried by unanimous voice vote -5.

ADJOURNMENT

There being no further business, Mayor/Chair Johnson adjourned the Special Joint Meeting at 8:19 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, Community Improvement
Commission

The agenda for this meeting was posted in accordance with the Brown Act.

UNAPPROVED MINUTES
MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -JANUARY 4, 2005- - 6:30 P.M.

Mayor Johnson convened the Special Meeting at 6:30 p.m.

Roll Call - Present: Councilmembers Daysog, deHaan, Gilmore,
Matarresse, and Mayor Johnson - 5.

Absent: None.

The Special Meeting was adjourned to Closed Session to consider:

(05-____) Public Employment; Title: City Manager.

(05-____) Public Employee Performance Evaluation; Title: City Attorney.

Following the Closed Session, the Special Meeting was reconvened and Mayor Johnson announced that the Council discussed Public Employment and recruitment of the new City Manager, and Public Employee Performance Evaluation of the City Attorney.

Adjournment

There being no further business, Mayor Johnson adjourned the Special Meeting at 7:30 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

UNAPPROVED MINUTES
MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -JANUARY 4, 2005- -7:30 P.M.

Mayor Johnson convened the Regular Meeting at 7:53 p.m.

ROLL CALL - Present: Councilmembers Daysog, deHaan, Gilmore,
Matarrese and Mayor Johnson - 5.

Absent: None.

AGENDA CHANGES

None.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(05-____) Presentation on the basic requirements for an Indian Tribe to operate a Casino in California.

The Assistant City Attorney provided a brief report on the basic requirements to conduct tribal gaming.

Mayor Johnson stated that the purpose of the presentation was to inform the public on the required process for the Koi Tribe to obtain approval for a casino; stated that presentation tapes would be available for public review and that the public should direct questions to the City Attorney's office.

Michael Scholtes, Bay Isle Pointe Home Owners Association, stated that he opposes the proposed casino.

Mayor Johnson requested staff to place a resolution opposing the proposed casino on the next City Council agenda.

Rosemary Cambra, Mowekma Ohlone Tribe of the San Francisco Bay Area, submitted a handout and cautioned the Council on taking a stance against the proposed casino.

Councilmember Daysog stated that Council would need to exert pressure and fight on behalf of the City.

CONSENT CALENDAR

Mayor Johnson announced that the recommendation to approve Agreement between the Alameda Unified School District and the City of Alameda [paragraph no.____], the Resolution Authorizing Open Market Purchase [paragraph no.____], and the Ordinance Amending the

Alameda Municipal Code [paragraph no. ____] were removed from the Consent Calendar for discussion.

Councilmember Matarrese moved approval of the remainder of the Consent Calendar.

Councilmember Daysog seconded the motion, which carried by unanimous voice vote - 5.

(*05-____) Minutes of the Special and Regular City Council Meetings held on December 21, 2004. Approved.

(*05-____) Ratified bills in the amount of \$4,037,089.03.

(*05-____) Recommendation to award Contract in the amount of \$127,102.65 to Stewart & Stevenson for Ferry Vessel Reduction Gears, No. P.W. 10-04-15. Accepted.

(*05-____) Recommendation to terminate the Contract with J.W. Riley & Son, Inc. for Alameda Point Multi Use Field, No. P.W. 12-02-18 and authorize project completion. Accepted.

(*05-____) Recommendation to award Contract in the amount of \$45,000 to Maze and Associates for Financial Modeling Services. Accepted.

(*05-____) Recommendation to accept Annual Review of the Affordable Housing Ordinance. Accepted.

(05-____) Recommendation to approve Agreement between the Alameda Unified School District and the City of Alameda for Use and Development of Real Property at the K-8 School and Park site in the Bayport Residential Development Project.

Mayor Johnson stated that the Agreement facilitates the goal for having the school and the park built near the Bayport residential area.

Councilmember deHaan inquired whether there is funding for the Preschool and Tiny Tots at the Community Building, to which the Recreation and Parks Director responded in the affirmative.

Councilmember Matarrese moved approval of the staff recommendation.

Vice Mayor Gilmore seconded the motion, which carried by unanimous voice vote - 5.

(*05-) Recommendation to accept the Bayport Residential Interim 115Kv overhead power line improvements and authorize recording a Notice of Completion. Accepted.

(05-) Resolution No. 13807, "Authorizing Open Market Purchase from Allied Sweepers, Inc., Pursuant to Section 3-15 of the Alameda City Charter, of "Green Machine" Sidewalk Cleaning Equipment." Adopted.

Sherri Stieg, West Alameda Business Association (WABA), thanked the Council for their efforts with the Webster Street project.

Vice Mayor Gilmore stated that she was happy to see the project progressing; she would like to see the trees replaced as soon as possible.

Councilmember deHaan stated that he is pleased with the progress; requested periodic progress reports on the Streetscape Project.

Mayor Johnson stated schedule updates should continue to be provided.

Councilmember Matarrese moved adoption of the resolution.

Vice Mayor Gilmore seconded the motion, which carried by unanimous voice vote - 5.

(*05-) Resolution No. 13808, "Approving Parcel Map No. 8401 (2340 and 2350 North Loop Road)." Adopted.

(*05-) Resolution No. 13809, "Reappointing T. David Edwards as Trustee of the Alameda County Mosquito Abatement District." Adopted.

(05-) Introduction of Ordinance Amending the Alameda Municipal Code by Amending Subsection 3-28.9 (Payment In-Lieu of Taxes - PILOT); Adding a New Subsection 3-28.10 (Return on Investment in Enterprise Funds) of Section 3-28 (Payment of Taxes) of Chapter III (Finance and Taxation) and Adding a New Subsection 18-4.10 (Exemptions) of Section 18-4 (Sewer Service Charge) of Article I (Sewers) of Chapter XVIII (Sewer and Water). Introduced.

Councilmember Daysog stated that increasing the Return on Investment (ROI) to 3% could cause some impacts; encouraged the Council not to vote tonight and place the matter as an action item for the next City Council meeting; \$782,000 would be received from

Alameda Power & Telecom (AP&T) by staying at the original proposal of 1% ROI; if the \$782,000 is relayed back to the rate payer, the monthly bill could be increased from \$1.53 to \$2.03.

The Interim City Manager stated the Ordinance requires two readings and would automatically be placed on the next agenda for discussion.

Councilmember Daysog stated that matters relating to potential rate increases should be addressed as an action item.

Mayor Johnson inquired whether there would be rate increases, to which the Finance Director responded there would be no rate impact for the first year and that staff is currently working to mitigate any impact for the second year.

Mayor Johnson stated that Council is not voting to increase AP&T or Golf rates; Council can continue to review and make adjustments if necessary.

The Interim City Manager stated that the ROI recommended would not have an impact on rates.

Councilmember Matarrese requested that budgetary items be placed on the regular agenda in the future.

Councilmember Daysog moved introduction of the ordinance with direction that the matter be brought back to Council if there would be any cause for rate increases.

Councilmember deHaan seconded the motion, which carried by unanimous voice vote - 5.

(*05-___) Introduction of Ordinance Amending the Alameda Municipal Code by Adding a New Section 3-91 (City of Alameda Community Benefit Assessment Procedure Code) to Article VI (City of Alameda Improvement Procedure Code) of Chapter III (Finance and Taxation). Introduced.

REGULAR AGENDA ITEMS

(05-___) Recommendation to reappoint Mary Rudge as Alameda's Poet Laureat.

The Recreation and Parks Director outlined the nomination process.

Lisa Piatetsky, Executive Director Alameda City Art Council, stated that she looks forward to having Ms. Rudge continue as Alameda's Poet Laureat.

Mary Rudge, Alameda, submitted a handout; outlined poet activities; thanked the Council for acknowledging and encouraging poetry.

Nina Serrano, Alameda County Arts Commission, commended the Council for having a Poet Laureat.

Mosetta Rose London, Alameda, thanked the Council for the dedication of the O'Club to Al DeWitt and for placing her poem on a plaque at the O'Club; read a poem that she wrote.

Nanette Bradley Deetz, Alameda Island Poets, read a poem that she wrote about Alameda.

Ken Peterson, Vice President, Alameda Island Poets, stated the program has been a tremendous success for poetry and for the City.

Councilmember Daysog moved approval of the staff recommendation.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(05-____) Public Hearing to consider an Appeal of the Planning Board's denial of Major Design Review DR04-0013 and Variances V04-0005, V04-0015, V04-0016, V04-0017 to permit the construction of a rear deck and garage addition that was completed without City permits. The rear deck measures thirty inches in height from grade to the top surface of the deck and is built up to the south (left side) and west (rear) property lines. The garage addition is an expansion of the existing single-family dwelling up to the north (right side) and west (rear) property lines. The Applicant is requesting four (4) Variances to permit the construction of the work completed without permit including: 1) Variance to Alameda Municipal Code (AMC) Subsection 30-5.7(c)(2)(6) to construct a rear deck that measures thirty inches in height and is constructed up to the south side and rear property line with zero setback, where a minimum three foot setback is required for decks measuring twelve to thirty inches in height; 2) Variance to AMC Subsection 30-5.7(e)(1) to construct an unenclosed stair and landing up to the south side property line with zero setback, where a minimum three foot setback is required for unenclosed stairs and landings; 3) Variance to AMC Subsection 30-4.4(d)(7) to construct an attached garage addition that extends the main dwelling up to the rear property line with zero setback where a minimum twenty foot setback is required for rear yards; 4) Variance to AMC Subsection 30-

4.4(d)(6) to construct an attached garage addition that extends the main dwelling up to the north side property line with zero setback where a minimum five foot setback is required for side yards. The site is located at 913 Oak Street within an R-4, Neighborhood Residential Zoning District. Applicant/Appellant: Fred and Ursula Hoggenboom; and

(05- A) Resolution No. 13810, "Upholding the Planning Board's Denial of Major Design Review DR04-0013 and Variances, V04-005, V04-0015, V04-0016, V04-0017 for the Structural Expansion of a Single-Family Residence and Construction of Rear Deck at 913 Oak Street." Adopted.

The Supervising Planner provided a presentation on the background of the project.

Vice Mayor Gilmore inquired whether the garage was a two-story structure connected to the house, to which the Supervising Planner responded in the affirmative.

Vice Mayor Gilmore inquired whether the garage was intended to be more than a one-car garage, to which the Supervising Planner responded that the plans indicate a one-car garage with storage on the left side.

Vice Mayor Gilmore inquired whether there was a proposal for the upstairs portion of the garage, to which the Supervising Planner responded the photographs show an attic with a couple of chairs and table.

Vice Mayor Gilmore stated the garage doors are smaller than the width of the driveway; there is a vent pipe that comes down along the side of the house and protrudes into the driveway which would make it very difficult for a car to enter the garage.

The Supervising Planner stated many driveways are challenging in terms of access.

Vice Mayor Gilmore stated that she is concerned with the intent of using the garage for the proposed use.

The Supervising Planner stated that the Parking Ordinance requires that garages be kept free of structures to accommodate a vehicle.

Vice Mayor Gilmore stated that the garage could abut the property line if detached from the house; once the garage is attached to the house, there are side and backyard setback issues.

The Supervising Planner stated the Code allows for garages to abut both the side and rear property lines under certain circumstances; the front of the garage needs to be 75 feet from the front property line and there needs to be a 5-foot separation between the main house and the garage; a detached garage could comply with the 75-foot regulation; she is not sure about compliance with the 5-foot separation because there is a small addition at the rear of the house which might result in less than a 5-foot separation; a smaller detached garage might require a modest variance.

Mayor Johnson inquired what was the square footage of the garage, to which the Supervising Planner responded approximately 300 square feet.

Mayor Johnson inquired what was the square footage of a typical garage, to which the Supervising Planner responded a one-car garage would be approximately 200 square feet.

Mayor Johnson inquired why the garage was larger than a typical garage, to which the Supervising Planner responded that the residents wanted storage.

Mayor Johnson inquired when the original garage was demolished, to which the Supervising Planner responded possibly a few years ago.

Councilmember Matarrese inquired whether there was a deck variance involved.

The Supervising Planner responded that the deck required a variance because it is 28 inches from the grade; decks 12 inches from the grade or less are allowed to encroach into yards; decks between 12 and 30 inches require a 3-foot separation from the side and rear property line; there is an opportunity to modify the deck by either reducing the height, which would result in a deck that is not level with the house, or by reducing the size of the deck to provide the required set back.

Mayor Johnson inquired whether there was a height limit on backyard fences, to which the Supervising Planner responded the limit is 6 feet for a solid fence and 8 feet for a fence with 2 feet of lattice on top.

Mayor Johnson inquired whether there was an 11-foot fence in the yard, to which the Supervising Planner responded that staff is not clear who owns the fences that surround the property.

Mayor Johnson inquired whether the fence issue would be pursued regardless of tonight's decision, to which the Supervising Planner responded in the affirmative.

Mayor Johnson opened the Public Hearing.

Proponents (In favor of appeal):

Fred Hogenboom, Alameda, and Ursula Hogenboom, Alameda.

Opponents (Opposed to appeal):

Raymond A. Pacovsky, Sr., Alameda; Raymond S. Pacovsky, Jr., Alameda, and Barbara Kerr, Alameda.

Mayor Johnson stated the initiation of construction without permits makes the permitting process difficult; inquired whether the Appellant informed the Planning Board that the structure was over his property line.

The Appellant responded in the negative; stated that the structure is well within the property line; the structure was moved 2 inches inward from the original garage.

Vice Mayor Gilmore inquired how tall the spa was from the floor of the deck to the top of the spa, to which the Appellant responded three and a half feet at the most.

Vice Mayor Gilmore stated that the Planning staff recommended dropping the deck approximately 12 inches; inquired whether the 12 inches would equate to two steps.

The Appellant stated that he would need to put in three steps to lower the deck 12 inches.

Vice Mayor Gilmore inquired whether accommodating his wife was part of the reason for having the deck the same level as the house.

The Appellant responded that his wife has had two back surgeries and three hip replacements; stairs are difficult for her.

Vice Mayor Gilmore stated there is a two-foot hop to get into the spa which appears to be more difficult to navigate than the stairs out of the house.

Mayor Johnson stated that one of the reasons for deck height limits is because high decks and spas are an intrusion into neighbors'

backyards; inquired how the footprint of the original garage was established.

The Supervising Planner responded that the Appellant submitted plans in 1991 for foundation work at the front of the house which indicate that there is a separation between the back of the house; the then existing garage did not seem to be as close as the current plans show.

Mayor Johnson inquired whether the Appellant put siding on the neighbors' structures, to which the Appellant responded that he put sheet metal up to prevent rotting.

Mayor Johnson inquired whether the Appellant asked the neighbors before putting up the sheet metal, to which the Appellant responded in the negative.

Mayor Johnson inquired what would happen if the variances are denied, to which the Supervising Planner responded that two things could happen; the Appellant could work with staff for a solution that would allow a garage and deck that is either fully in compliance or would require a more modest variance or the Appellant could file a lawsuit against the City.

Mayor Johnson inquired whether the Appellant has paid fines, to which the Supervising Planner responded investigative fees and fees for working without the proper planning permits have been charged.

There being no further speakers, Mayor Johnson closed the public portion of the Hearing.

Councilmember Daysog moved adoption of the resolution upholding the Planning Board's decision and denying the Appeal.

Councilmember Matarrese seconded the motion.

Under discussion, Councilmember Matarrese stated there was only one decision that the Planning Board could have made given the circumstances; encouraged the owner to work with the Planning Department to salvage the intent of the project within the requirements of the Code.

Vice Mayor Gilmore stated that she assumes that the Appellants had the best of intentions; the Code clearly specifies detached garage and addition requirements; the project is attempting to be both an addition to the house and a garage; stated future owners could convert the garage into a living space.

On the call for the question, the motion carried by unanimous voice vote - 5.

(05-) Discussion regarding assistance for tenants at Harbor Island Apartments.

Mayor Johnson stated that rent control issues are not on the agenda tonight but that the public is free to speak under Oral Communications.

The Housing Authority Executive Director gave a brief presentation regarding the assistance provided to the Harbor Island Apartment tenants.

Speakers: John Sullivan, San Leandro, Mark Harney, Fifteen Asset Management Group; Kathy Lautz, Apartment Owners' Association; Lorraine Lilley, Harbor Island Tenant Association; Eve Bach, Arc Ecology; Tom Matthews, Renewed Hope; Steve Edrington, Renal Housing Association; Delores Wells, Harbor Island Tenant Association; Modessa Henderson, Harbor Island Tenant Association; Mary Green-Parks, Alameda; Gen Fujioka, Asian Law Caucus; Reginald James, Alameda; Michael Yoshii, Alameda; and Bill Smith, Alameda.

Mayor Johnson inquired whether there are a total of 17 units currently occupied, to which Mr. Harney responded there are 17 units that are occupied by tenants with leases; there are 9 units occupied by tenants who have stopped paying rent.

Mayor Johnson inquired whether relocation assistance would still be available to the remaining tenants with leases, to which Mr. Harney responded in the affirmative.

Vice Mayor Gilmore inquired how many Harbor Island Apartment tenants remained in Alameda, to which Mr. Harney responded that he was not certain; not all tenants provided forwarding information.

Councilmember deHaan requested information on the number of Section 8 tenants that remained in Alameda.

Councilmember Matarrese stated that Council wants to know what the immediate issues are in dealing with individuals who are still occupying units at the Harbor Island Apartments and what assistance can be provided; inquired whether there are housing assistance opportunities for the remaining tenants through Community Development programs or Sentinel Fair Housing.

The Community Development Manager responded that the Community Development Block Grant (CDBG) Program contracts with Sentinel Fair

Housing and the Red Cross; Sentinel Fair Housing has been involved with a number of the tenants; CDBG funds are also being used to produce new affordable housing units through the Substantial Rehabilitation Program; several of the units would be available to applicants who previously resided at the Harbor Island Apartments; security deposit assistance programs have been funded in the past which allowed Housing Authority tenants to borrow money from the revolving loan fund and repay over time; the fund was depleted as a result of earlier Section 8 problems; another funding cycle would become available in July.

Councilmember Matarrese inquired whether there was a way to work with the Apartment Owners' Association to help the remaining tenants.

The Community Development Manager responded there could be some coordination for specific interventions that may help the tenants; the cash to provide deposits is a longer-term consideration and might be more difficult without reprogramming of funds.

Mayor Johnson requested staff to review loan possibilities.

The City Manager stated that he would work with staff to find solutions.

Councilmember Matarrese stated there needs to be aggressive action in helping the remaining tenants.

Councilmember Daysog stated that most families would like to remain at the Harbor Island Apartments but the courts have ruled otherwise and they must move; the City needs to see what can be done to facilitate the situation in a manner that dignifies the tenants; the Council needs to pursue the best policy that prevents the Harbor Island Apartment situation from happening again.

ORAL COMMUNICATIONS, NON-AGENDA

(05-____) Michael John Torrey, Alameda, stated that the Webster Street construction has posed a danger to bus passengers at the bus stops.

The Assistant City Manager stated that the construction work has been delayed because of the rain; stated he would discuss the situation with the Public Works Director.

(05-____) Reginald James, Alameda, encouraged the reappointment of Mary Rudge as Alameda's Poet Laureat; stated that he was concerned about a sign stating that there may be a possible reproductive

harmful environment at the Harbor Island Apartments; stated that there should be another meeting of the Harbor Island Task Force.

(05-____) Bill Smith, Alameda, discussed earthquakes.

COUNCIL COMMUNICATIONS

(05-____) Councilmember Matarrese welcomed Interim City Manager, Bill Norton.

Mayor Johnson welcomed the Interim City Manager to his first Council Meeting.

ADJOURNMENT

(05-____) There being no further business, Mayor Johnson adjourned the Regular City Council meeting at 11:15 in a moment of silence and sympathy for the tsunami victims in Southeast Asia.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

UNAPPROVED MINUTES
MINUTES OF THE SPECIAL JOINT CITY COUNCIL,
COMMUNITY IMPROVEMENT COMMISSION, AND
ALAMEDA REUSE AND REDEVELOPMENT AUTHORITY MEETING
WEDNESDAY - - - JANUARY 5, 2005 - - - 5:31 P.M.

Mayor/Chair Johnson convened the Special Joint Meeting at 6:05 p.m.

Roll Call - Present: Councilmembers/Commissioners/Authority
Members Daysog, deHaan, Gilmore,
Matarrese, and Mayor/Chair Johnson - 5.

Absent: None.

The Special Joint Meeting was adjourned to Closed Session to consider:

(05- CC/05- CIC) Conference with Real Property Negotiators;
Property: Alameda Naval Air Station, Fleet Industrial Supply
Center; Negotiating Parties: City of Alameda, Community Improvement
Commission, Alameda Reuse and Redevelopment Authority, Alameda
Point Collaborative; Under Negotiations: Price and terms.

Following the Closed session, the Special Meeting was reconvened
and Mayor/Chair Johnson announced that the
Council/Commission/Authority gave direction to follow the
negotiating approach recommended by the real property negotiator.

Adjournment

There being no further business, Mayor/Chair Johnson adjourned
the Special Meeting at 7:10 p.m.

Respectfully submitted, .

Lara Weisiger, City Clerk
Secretary, Community Improvement
Commission

The agenda for this meeting was posted in accordance with the Brown
Act.

January 13, 2005

Honorable Mayor and Councilmembers:

This is to certify that the claims listed on the check register and shown below have been approved by the proper officials and, in my opinion, represent fair and just charges against the City in accordance with their respective amounts as indicated thereon.

<u>Check Numbers</u>	<u>Amount</u>
132087 - 132532	2,987,230.01
E13031 - E13136	63,961.54

Void Checks:

121880	(100.00)
121881	(100.00)
121878	(100.00)
93422	(96.24)
121818	(20.00)
121821	(20.00)
121822	(20.00)
121825	(20.00)
121827	(20.00)
121912	(50.00)
121913	(50.00)
121914	(50.00)
121916	(50.00)
121917	(50.00)
121919	(50.00)
121920	(50.00)
121922	(50.00)
121923	(50.00)
121925	(50.00)
122071	(55.00)
122072	(55.00)
122073	(55.00)
122074	(55.00)
122075	(55.00)
122078	(55.00)
122079	(55.00)
122080	(55.00)

GRAND TOTAL	3,049,755.31
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Allowed in open session:

Date: _____

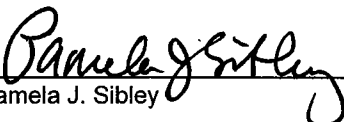
City Clerk

Approved for payment:

Date: _____

Chief Financial Officer

Respectfully submitted,


Pamela J. Sibley

City of Alameda

Inter-department Memorandum

TO: Honorable Mayor and Councilmembers

FROM: William C. Norton
Interim City Manager

DATE: January 12, 2005

SUBJECT: Resolution Opposing the Proposed Lower Lake Rancheria-Koi Nation Casino in the City of Oakland

Background

This item has been agendized at the request of the City Council.

On December 14, 2005, the Alameda County Board of Supervisors passed a resolution in opposition to the proposed Koi Nation casino. The Oakland City Council passed a resolution declaring their opposition to establishment of casinos and legalized gambling within its municipal borders on January 11, 2005. The San Leandro City Council will consider a resolution opposing the proposed casino on February 7, 2005.

Discussion

The Lower Lake Rancheria Koi Nation has announced plans to develop a gaming casino at a site on Pardee Road at Swan Way in the City of Oakland. The project would include a "Las-Vegas-style" casino, restaurants, a hotel, spa, and entertainment venue. The proposed site is within two miles of Alameda's Bay Farm Island neighborhoods.

On November 16, 2004, the Bureau of Indian Affairs (BIA) published its Notice of Intent to prepare an Environmental Impact Statement (EIS) for the project. Completion of an EIS is one of the steps required before the land for the project can be placed into a federal trust for the tribe. The deadline for comments relating to the scope and implementation of the EIS is January 21, 2005. City staff are preparing the City's comments to the EIS scope and implementation. Among other concerns, the City will ask that the EIS thoroughly study traffic, public safety, socio-economic, and environmental impacts to communities in close proximity to the project site.

Budget Consideration/Financial Impact

Passage of this resolution will not impact the budget. However, effectively opposing the development of the casino will require additional resources beyond the \$50,000 appropriated by the City Council for the effort on December 7, 2004. It is anticipated that

this amount will cover only the initial community engagement and education process and that significant additional appropriations may be required if the City Council elects to actively oppose the Koi Nation casino project. Staff will come back to the Council with an estimate of additional costs when the scope of work has been determined.

Recommendation

The City Manager recommends passage of a resolution opposing the proposed Lower Lake Rancheria-Koi Nation casino in the City of Oakland.

Respectfully submitted,


William C. Norton
Interim City Manager

WCN:cj

CITY OF ALAMEDA RESOLUTION NO. _____

OPPOSING THE PROPOSED LOWER LAKE RANCHERIA-KOI NATION CASINO
IN THE CITY OF OAKLAND

WHEREAS, the Lower Lake Rancheria-Koi Nation proposes to build a 200,000 square foot gambling casino and hotel complex on 35 acres in the City of Oakland near the Oakland International Airport and within two miles of Alameda's Bay Farm Island neighborhoods; and

WHEREAS, research shows that gambling casinos impact communities within a 50-mile radius and the entire City of Alameda is located within 2-9 miles of the proposed casino site; and

WHEREAS, gambling casinos are known to have a negative impact, including increased crime and traffic congestion, on surrounding communities; and

WHEREAS, gambling casinos are known to be most often frequented by residents of surrounding communities and to have a negative impact, including financial instability, incarceration, divorce, and domestic violence, on the individuals and families who gamble there and ultimately cost society far more than such operations will pay in fees and taxes to the City of Oakland; and

WHEREAS, the proposed casino site is surrounded on three sides by the Martin Luther King Regional Shoreline Park which provides a sanctuary for endangered species that would be negatively impacted by a 24-hour, 2,000 slot machine casino; and

WHEREAS, hundreds of Alameda residents attended the December 14, 2004 Joint Alameda and San Leandro Town Hall meeting and voiced their concerns about the potential negative impacts of the proposed Koi Nation casino on their community;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Alameda opposes the proposed Lower Lake Rancheria-Koi Nation casino.

BE IT FURTHER RESOLVED that the Council of the City of Alameda, directs the City Manager and City Attorney to respond to the Environmental Impact Statement on the Lower Lake Rancheria-Koi Nation proposal for a casino-hotel in the City of Oakland at the corner of Swan Way and Pardee Drive.

BE IT FURTHER RESOLVED that the Council of the City of Alameda directs the Interim City Manager to work with his colleagues in the surrounding jurisdictions to actively oppose the proposed casino.

Resolution #5-A
1-18-05

Approved as to Form

[Signature]
CITY ATTORNEY

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 18th day of January, 2005, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ____ day of _____, 2005.

Lara Weisiger, City Clerk
City of Alameda

CITY OF ALAMEDA

MEMORANDUM

To: The Honorable Mayor
and Members of the City Council

From: William C. Norton
Interim City Manager

Date: January 5, 2005

Re: Public Hearing on Housing and Community Development Needs for
Community Development Block Grant Annual and Five-Year Plans

Background

As an "Entitlement" city, Alameda receives Community Development Block Grant (CDBG) funds from the federal Department of Housing and Urban Development (HUD). CDBG regulations require an annual public hearing to obtain citizens' views on current housing and community development needs. Noticed in the December 3, 2004 Alameda Journal and on the City's website, this Hearing provides an opportunity for input to a new Five-Year Plan covering FYs 2005-2010 and to the Action Plan for the coming year, FY 2005-06.

Discussion/Analysis

The new Five-Year Housing and Community Development Strategic Plan for FYs 2005-2010 will set forth Priority Needs and Objectives for the specified period. As required by HUD, the Five-Year Plan is developed in conjunction with other jurisdictions in Alameda County. Draft objectives are similar to those previously approved by Alameda and are listed in Attachment A to this report.

Alameda's FY 05-06 Action Plan will identify local areas of emphasis and uses of CDBG funds to address needs in eligible categories. Eligible activities include property acquisition and rehabilitation, public facilities improvements, public services, accessibility improvements, economic development, and planning and administrative activities. At least 70% of CDBG funds must benefit low- and moderate- income residents or neighborhoods. A limited amount may also be used to eliminate blight in selected areas. Activities not directly benefiting an eligible individual or household must meet identified needs in low-income neighborhoods shown on the attached map (Attachment B).

In general, Alameda's housing and community development needs include affordable housing, structurally sound and well-maintained residential and commercial structures, and public facilities and services to maintain and enhance neighborhood amenities and quality of life. As part of its charter to advise the City Council regarding social service needs in the community, the Social Service Human Relations Board has been receiving citizen and provider comments and has provided a letter regarding community needs (Attachment C).

Fiscal Impact

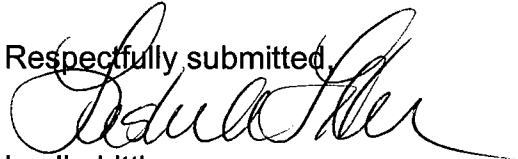
There is no impact on the General Fund. However, the use of CDBG funds helps maintain the affordable housing stock, improve public facilities and provide needed public services by leveraging public and private investment that help defray General Fund costs.

Due to cuts at the federal level, Alameda's final FY 2005-06 Entitlement allocation is \$1,500,628, a drop of more than \$60,000 from FY 2004-05. The City anticipates approximately \$203,000 in Program Income will be generated through residential rehabilitation and microenterprise loan repayments, increasing the FY 2005-06 CDBG funding total to \$1,703,628. As required by CDBG regulations, the City's FY 2005-06 public services allocation is capped at 15% of the FY 2005-06 grant plus prior year's program income. Due to the overall reduction in Entitlement funds, the FY 2005-06 public services cap is projected to be \$254,717, which is a reduction of approximately \$50,000 from the preceding year.

Recommendation

It is recommended that the City Council proceed with the public hearing on current and anticipated housing and community development needs. After the public portion of the Hearing, Council members may wish to identify additional needs that have not been noted in citizens' comments.

Respectfully submitted,



Leslie Little
Development Services Director



By: Carol Beaver
Community Development Manager

LL/CB/TW:sb

Attachments

cc: Social Service Human Relations Board

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FY 2005-09 Consolidated Plan – Draft Priority Areas

Priority: Housing Needs*

- Assist low and moderate income first-time homebuyers.
- Increase the availability of affordable rental housing for extremely low income, low income and moderate income households.
- Preserve existing affordable rental housing and ownership for low income and moderate income households.

Priority: Fair Housing Access*

- Reduce housing discrimination.

Priority: Homeless Needs*

- Build on inter-jurisdictional cooperation to achieve housing and homeless needs.
- Maintain, improve and expand (as needed) the capacity of housing, shelter and services for homeless individuals and families including integrated healthcare, employment services and other services.
- Maintain and expand activities designated to prevent those currently housed from becoming homeless.

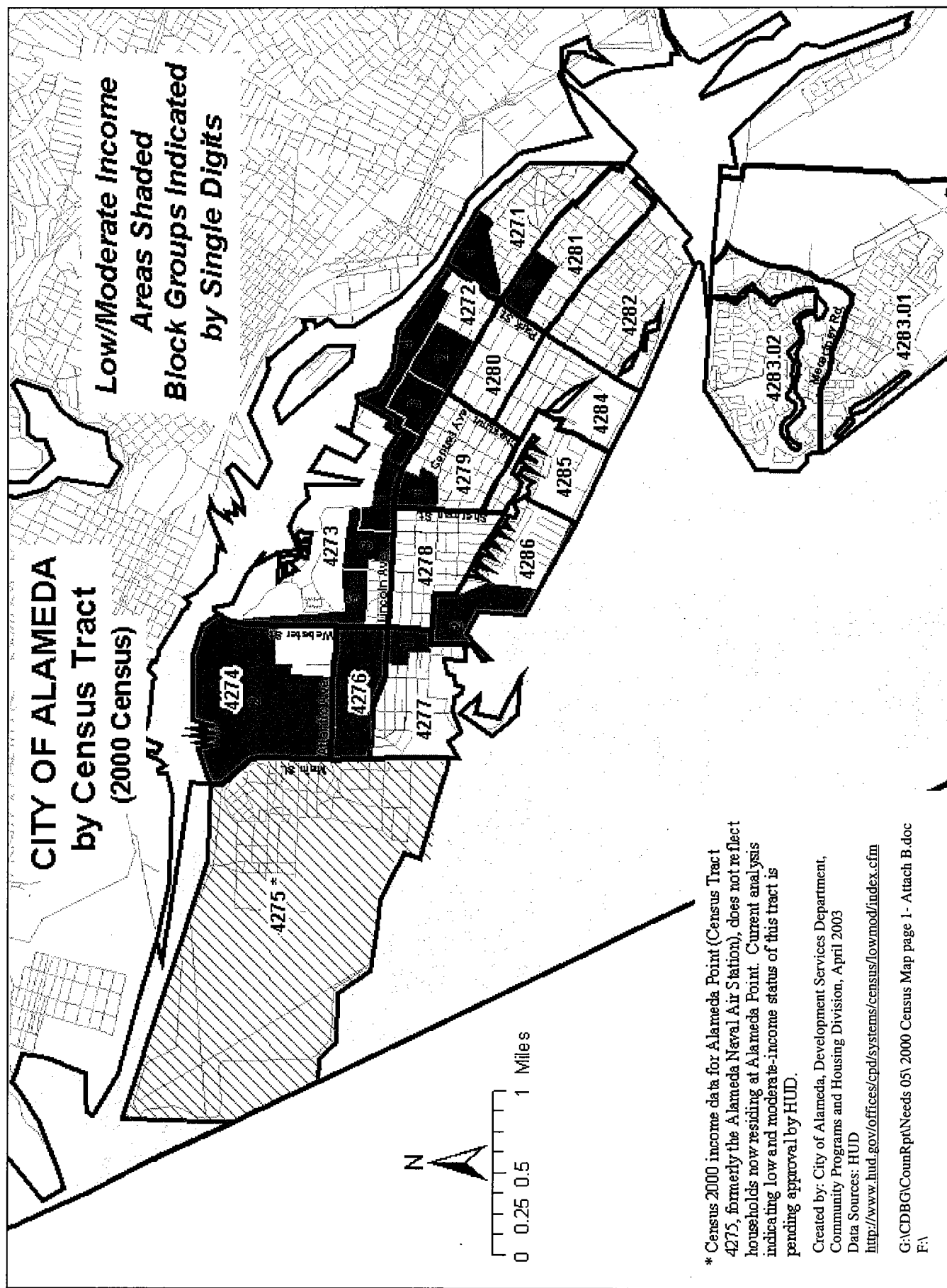
Priority: Supportive Housing Needs*

- Increase the availability of service-enriched housing for persons with special needs.

Priority: Community Development (Non-Housing) Needs*

- Accessibility Needs
- Child Care Facilities and Services
- Crime Awareness (Prevention)
- Economic Development
- Infrastructure Improvements
- Parks and Recreation Facilities
- Public Services
- Neighborhood Facilities
- Senior Facilities and Services

* These need areas are uniformly set, as required by HUD.





January 11, 2005

Carol Beaver
Community Development Manager
Development Services Department, City of Alameda
950 W. Mall Square, Second Floor
Alameda, CA 94501

Subject: Social Service Human Relations Board Recommendations Regarding Housing and
Community Development Needs

Dear Ms. Beaver:

The Social Service Human Relations Board advises the City Council regarding social service and human relations needs in Alameda. In 1997, the Council asked the SSHRB to participate in the Community Development Block Grant (CDBG) process by reviewing and commenting on the public service needs and funding recommendations. This letter represents our input for the annual needs process, culminating in the Needs Hearing at the January 18, 2005 City Council meeting.

At our December 8, 2004 and January 6, 2005 Special Meetings, we received input from seven service providers (Attachment A) and reviewed the comments we provided to you in 2003 and 2004. In addition, several Board members participated in the recent survey of Food Bank clients and learned about the needs of Alameda families first-hand. As in years past, we are impressed with the breadth of needs that are addressed with the City's Community Development Block Grant funds, and we noted with dismay the projected reduction in funding from the 2004-05 level.

Based on the comments we received and our own observations, we believe there is a continuing need for both safety net services and programs to empower and support residents' efforts towards self-sufficiency. We also recognize the need for services that help residents obtain and maintain housing in the face of high costs and changing community conditions. We are concerned that Alameda's diversity is being threatened by changes in the housing market and we believe a combination of the above services will help to minimize these impacts. Finally, because of the funding reductions, we believe there is an even greater need to increase the capacity of service providers to deliver services efficiently and without duplication and overlap.

We compared the Focus Areas of the past two funding cycles with the comments we received this year and concluded that certain areas have become even more critical in light of the changes Alameda residents are experiencing. **Emphasis should be placed on:**

- **Strengthening Alameda's safety net** for families and individuals who are in crisis or vulnerable, through programs such as needed food, shelter, health care and personal safety services;

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Development Services Department

Alameda Point Main Office
950 West Mall Square,
Alameda, CA 94501-7552
510 749.5800 • Fax 510 749.5808 • TDD 510 522.7538

- **Improving access to affordable housing in Alameda** through programs such as fair housing and landlord/tenant education, homeless prevention and short-term rental and utilities assistance;
- **Empowering Alamedans to achieve economic and social self-sufficiency and stability** through programs for full-day and after-school childcare, financial literacy, job training, transportation and youth development; and/or
- **Supporting capacity-building for Alameda's service providers** to maximize resources and coordinate service delivery for comprehensive and long-lasting results, such as a centralized service management system to avoid duplication and provide information for fundraising, case management, partnership building with the local business community, training and technical assistance.

While this last focus area apparently falls outside the Public Services category, we were heartened to learn that CDBG "Technical Assistance" funds might be available to help address the need for capacity-building for improved delivery of public services. We strongly encourage you to pursue this option, since many providers commented on this need.

The SSHRB recommends no particular order of priority or percentage allocation of CDBG public service funds among these focus areas in the RFP. Rather, **we hope that the funding allocations will reflect a commitment to:**

- **Maintaining Alameda's diversity**
- **Supporting families and individuals who are vulnerable or in crisis, and**
- **Empowering families and individuals with tools for self-sufficiency and success.**

We look forward to reviewing staff's evaluation of all proposals received in response to the RFP as part of the next CDBG public comment period.

Sincerely,



Stewart Chen, Vice President
Social Service Human Relations Board

SC:cb

Attachment

cc: Mayor and Councilmembers
Social Service Human Relations Board

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ATTACHMENT A

**Social Service Human Relations Board
December 8, 2004 and January 6, 2005
Public Service Speakers**

Jackie Krause, Mastick Senior Center

Doug Biggs, Alameda Point Collaborative
Jackie Patterson, Alameda Point Collaborative resident

Sue Rutherford, Banana's

George Phillips, West Alameda Teen Club, Alameda Boys & Girls Club

Hugh Cavanaugh, Alameda Food Bank

Jim Franz, Alameda Red Cross

Annalisa Moore, Alameda Unified School District, Woodchip Afterschool Programs
Daisy and Shaaquille, Students

City of Alameda
Memorandum

DATE: January 11, 2005

TO: Honorable Mayor and
Councilmembers

FROM: William C. Norton
Interim City Manager

RE: Public hearing to consider rezoning of approximately 7,800 square feet of property from R-5 General Residential to C-C Community Commercial; and to consider an appeal of the Planning Board's approval of Design Review DR04-0101 at 1410 Everett Street, to allow a 5,300 square foot new commercial building (veterinary hospital) to replace approximately 2,000 square of commercial buildings, with a parking lot expansion to 23 spaces. The property is in the C-C Community Commercial and R-5 Hotel Residential Zoning Districts.

BACKGROUND

Notification of the rezoning and appeal of Design Review was published in the Alameda Journal, newspaper of record, on Friday January 7, 2005 as required by AMC Sections 30-22.6, 25.5 and 30-36.2. Due to unforeseen circumstances, notification by mail to property owners within 100 feet of the subject property was not sent, per AMC Section 30-36.2 for Major Design Review.

DISCUSSION/ANALYSIS

In order to provide notification for the Major Design Review, continuance to the next City Council meeting would be required. Staff would mail the notices immediately after January 18, 2005. The applicants and appellant have been notified of this proposed change of hearing date.

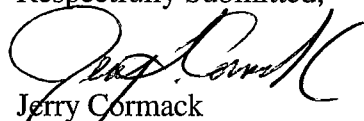
BUDGET CONSIDERATION/FISCAL IMPACT

There will be no additional funding necessary relative to the appeal.

RECOMMENDATION

It is recommended that the City Council continue the public hearing to the February 1, 2005 meeting.

Respectfully Submitted,


Jerry Cormack
Interim Planning Director

City of Alameda

Memorandum

DATE: January 07, 2005

TO: Honorable Mayor and Councilmembers

FROM: James M. Flint
City Manager

RE: Request for Continuance - Public hearing to consider an Appeal of the Planning Board's denial of Variances, V04-0006, 0007, 0008 and 0010, and denial of Major Design Review, DR04-0026 for all development projects at 3017 Marina Drive. The development projects also include the expansion of the residence into the estuary and installation of rear yard decks. Approval is being sought for the following Variances: 1) Variance to AMC, Subsection 30-4.1(d)(3)(Maximum Main Building Coverage exceeding 48 percent; 2) Variance to AMC, Subsection 30-4.1(d)(7) and Section 30-2 (Rear Yard) because the building extends across the rear property line into the estuary; 3) Variance to AMC, Subsection 30-5.7(a)(Roof Eaves) and 30-5.7(d)(Bay Windows) because the roof eaves above the bay windows encroach to within 3-feet from the side property line and bay windows are not permitted to encroach into side yards; 4) Variance to AMC, Subsection 30-5.7(c)(1)(Rear Yard)/Subsection 30-2(definitions)(Yard-Rear) and Subsection 30-4.1(d)(7)(Rear Yard) because decks over 36-inches in height extend into the required side and rear yard setbacks; 5) Variance to AMC, Subsection 30-5.14(c)(Barrier Heights) because the wind- screens around the patios exceed the maximum permitted 8-foot height. The Planning Board also found that Variance for the Bay window encroachment be withdrawn because this encroachment is currently in compliance, subject to Design Review approval. The site is located within an R-1, Single-Family Residential Zoning District. Appellant/Property Owner: Rita Mohlen of 3017 Marina Drive.

BACKGROUND

The hearing on this appeal has been continued at numerous City Council meetings since July 2004. The continuances have been my mutual consent of the appellant and the City. The most recent continuance was to allow time to complete a review of the code determinations made for this project by an outside third party code expert. This review is still in progress and it is not anticipated it will be completed in time for the January 18, 2005 City Council scheduled hearing date. Given the length of time from which public notice was mailed and published for the appeal and that the expert third party review is not completed, staff recommends that this hearing be tabled and removed from the City Council agenda. When both the appellant and the City agree that all information and analysis is complete to conduct the City Council hearing a new public notice will be published and mailed to property owners in the vicinity of the project.

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Re: Public Hearing
and Reso 5-E
1-18-05

DISCUSSION/ ANALYSIS

The City Manager finds that tabling and re-noticing this hearing is appropriate because the additional time is necessary to complete the third party code review for this project prior to conducting the public hearing and the prior public notice was completed over six months ago.

BUDGET CONSIDERATIONS/ FISCAL IMPACT

There will be no additional funding required in the Planning & Building Department budget relating to Planning activities for this project. Application fees and processing costs are the responsibility of the applicant. The cost of completing the third party outside review will be funded from the Planning & Building Department budget pursuant to the City Manager's direction.

RECOMMENDATION

It is recommended that the City Council open the public hearing and table this hearing item.

Respectfully submitted,



Jerry L. Cormack
Interim Planning Director

cc: Rita Molhen, Property Owner/Applicant/Appellant
Andrew Stoddard, 3011 Marina Drive, Alameda, CA 94501
Andrew Cunningham, Planning Board President
Italo A. Calpestri III
Laurence Padway
Gene Lafollette
Greg Fox
BCDC
Army Corps of Engineers
Greg McFann

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**CITY OF ALAMEDA
MEMORANDUM**

Date: January 10, 2005

To: Honorable Mayor and
Councilmembers

From: William C. Norton
Interim City Manager

Re: Report Regarding Internal Control Structure

BACKGROUND

At its December 7, 2004 meeting, the Council received the Memorandum on Internal Control Structure, June 30, 2004. This is a letter to management from the audit firm indicating issues that came to their attention during the audit and their recommendations for improving these areas. The Council requested a response to the memorandum that would include curative and preventive actions.

DISCUSSION/ANALYSIS

The Memorandum on Internal Control Structure addressed eight issues. The attached staff response includes an analysis of each issue and curative and preventive plans. Curative plans will be the steps necessary to correct the current situation. Preventive plans are the actions needed to prevent a similar occurrence in the future.

This document has been reviewed by affected departments, the staff of the Finance Department and any others impacted by action plans.

BUDGET ANALYSIS/FINANCIAL IMPACT

A cumulative impact of all the curative and preventive plans is not known at this time. Many of the preventive plans will have financial impacts over several time periods. As programs are recommended, we will note the source as the "Memorandum on Internal Control Structure".

Honorable Mayor and
Councilmembers

January 10, 2005
Page 2 of 2

RECOMMENDATION

The Interim City Manager recommends acceptance of the report as submitted.

Respectfully submitted,

William C. Norton
Interim City Manager


By: Juelle-Ann Boyer
Chief Financial Officer

Attachment

JAB:dl

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CITY OF ALAMEDA
MEMORANDUM ON INTERNAL CONTROL STRUCTURE
JUNE 30, 2004

Pension Benefit & Financial Forecasts

The City, like many other California cities, is experiencing rising employee pension benefit costs in an environment of static or decreasing revenues after inflation. Employee pension benefit costs are expected to continue to rise as California Public Employees Retirement System (CALPERS) is likely to increase the life expectancy tables used to calculate contributions. The City should analyze the financial impact these employee pension benefits will have on its budget over the next ten years to determine if cost cutting measures will be required in other areas to pay for these benefits.

The City should also be aware of the Governmental Accounting Standards Board (GASB) Statement 45, which will require the City to calculate and report its post employment benefit costs for benefits other than pensions, beginning in fiscal year 2008. Although this liability and cost already exists, the City will then be required to quantify it and report it. The City should consider determining these costs currently rather than in several years and it should include these costs in their overall analysis.

For your consideration, we have provided you with three-year financial trends; ten-year trend information can be found in the statistical section of the City's 2004 Comprehensive Annual Financial Report.

	Governmental Revenue	Governmental Expenditures	PERS Contributions	Alameda Plan 1079 & 1082 Contributions	PARS Contributions	Total Pension Contributions	Total Contributions as a Percentage of Revenues	Total Contributions as a Percentage of Expenditures
2004	98,466,943	130,182,803	9,861,135	4,535,365	221,550	14,618,050	15%	11%
2003	94,871,727	112,538,832	7,671,759	4,231,050	188,499	12,091,308	13%	11%
2002	93,354,673	108,606,105	1,603,915	3,959,256	209,507	5,772,678	6%	5%
Increase 2002 to 2004	105%	120%	615%	115%	106%	253%		

In addition to analyzing the City's employee pension benefit costs over the next ten years, we also recommend the City consider preparing long-range, at least ten years, financial forecasts. By doing so, the long-range impacts of current decisions, as well as long-term needs, can be better evaluated.

Staff Response

To better understand the future pension obligations of the City of Alameda, a review of each plan is important. The Alameda Plan 1079 and 1082 are *defined benefit* plans for police and fire retirees who entered service before 1953. The 1079 plan is a closed plan. Retirees with 25 or more years of service receive monthly benefits equal to one-half the monthly salary paid to current City employees of the rank held by the retiree one year prior to the date of retirement. Retirees with between 10 and 25 years of service receive a proportionate benefit. Qualified surviving spouses receive the same benefit. Upon remarriage, the benefit to the surviving spouse is reduced to one-half of the retiree's monthly pension benefit. Likewise the 1082 plan is a closed plan. There are two retirees whose monthly benefits are \$3,259, which will be adjusted by 2% annually. The qualified surviving spouse receives one-half of the retiree's monthly pension benefit for life or until remarriage. The payment basis for both plans is current salaries paid to similar positions. The memorandum of understanding with the Alameda Police Officers Association becomes the key driver in the cost of both plans. We will be required to have an actuarial study prepared this spring to determine our estimated annual contribution amounts and the unfunded actuarial liability.

In 1990, Congress mandated that public sector employees who are not members of their employer's existing retirement system as of January 1, 1992, be covered by either Social Security or an alternative plan. Effective January 1, 1995, the City contracted with the Public Agency Retirement System (PARS) to provide a *defined*

CITY OF ALAMEDA
MEMORANDUM ON INTERNAL CONTROL STRUCTURE
JUNE 30, 2004

contribution plan. It covers part-time, seasonal and temporary employees not otherwise covered by a retirement plan. The City's liability is limited to the amount of current contributions. The employee contributes 6% and the city contributes 1.5% of the employees' salaries each month.

PARS also provides a Retirement Enhancement Plan (*defined benefit*) for specific management employees. The covered employees will receive retirement benefits of 3% at age 55 in addition to medical and disability benefits.

The majority of City employees participate in pension plans offered by California Public Employees Retirement System (CALPERS), a multiple employer *defined benefit* plan. As agent, CALPERS acts as a common investment and administrative agent for the participating member employers. The plans provide for retirement and disability benefits, annual cost of living adjustments, and death benefits. Employees participate in separate Safety (police and fire) and Miscellaneous (all other) Plans. Benefits are based on years of credited service. Safety employees reach retirement age at 50. Miscellaneous employees reach retirement age at 55. The benefit for Safety employees is 3% of annual salary per year of credited service. Employees contribute 9% of their salary. Miscellaneous employees' benefit is 1.426% to 2.418% of credited service depending on age. Employees contribute 7% of their salary.

CALPERS uses two methods to determine the City's contribution requirement; the Entry Age Normal Method and the Market Related Value Method. The first method predicts the amount that must be annually contributed in order to fund the employee's retirement. This method is used to amortize any unfunded actuarial liabilities. The second method values the Plan's assets. If the Plan's actuarial value (which is different from the market value) is less than the Entry Age Accrued Liability, then the plan has an unfunded liability. This unfunded liability increases the employer's contribution rate in order to amortize this unfunded liability. Currently, the employer's Safety rate is 34.031% (Fresh Start re-amortization amount) and the Miscellaneous rate is 9.432%.

The City's contribution has increased exponentially over the past few years. The "perfect storm" of plan amendments, market forces, and asset size all worked to impose severe budgeting problems on member public agencies. Amending the plan to change to 3% at 50 for Safety employees was valued by PERS at a rate that appeared to be tolerable at that time. However, concurrently, PERS investments have spiraled up and down much more severely than in years past. In essence, PERS investments would have funded the plan amendment. Even with asset smoothing, an accounting technique that graduates recognition of the rise and fall of assets, the "shock" of the future liability of the amendment is just appearing. The larger the size of the asset (invested portfolio) in relation to current payroll, the greater the impact of declining asset value. As the system has matured, asset size as compared to current payroll has increased at a greater rate than current payrolls. PERS and its member agencies are exploring several alternatives to this funding obligation, the dark cloud on the horizon.

Curative

The 10-year financial model, as proposed, will include all anticipated pension funding obligations as a detailed item. This longer-term view will certainly provide the "early warning" necessary to meet funding obligations in a variety of means. In conjunction with the financial model, the required actuarial study of the Closed Plans 1079 and 1082 will be performed this spring. In addition, another actuarial study will be made of the Other Post Employment Benefit costs in preparation for the GASB 45 reporting requirements. Staff will continue to monitor and report the proposed changes from PERS regarding funding changes and opportunities. In all cases, having the financial model done and updating it as changes occur will allow the Council to see the impending results of those actions.

CITY OF ALAMEDA
MEMORANDUM ON INTERNAL CONTROL STRUCTURE
JUNE 30, 2004

Preventive

Having the financial model will provide the basis for analyzing the future impact of proposed changes in the context of the complete, long-term financial picture of the City.

Debt Refinancing

During fiscal year 2004 the City refinanced two recently issued debt issues. Based on our review of the transactions it is unclear what the financial benefits were as the issuance cost to the City exceeded \$3 million. The City should continue to review these transactions to gain a better understanding of the purpose of these transactions. The City should consider involving its Finance Department staff in evaluating new debt transaction earlier in the issuance process. In addition, it appears that the consultant parties involved with these transactions were hired without going through a request for qualification process. Although this practice is currently allowed, the City should consider revising its practices and require requests for qualifications for these services.

Staff Response

It is important to note that these two issues were Community Improvement Commission bonds. The former Finance Director was a member of a City team responsible for making the recommendation on the refunding, the benefits of which were determined to have benefit the overall funding strategy of the CIC. Not all benefits of a bond refunding or refinancing are financial. Benefits may have economic and/or legal benefits as well. The original bond issue used a taxable synthetic fixed rate structure in order to preserve the City's ability to restructure the bonds as tax-exempt at a later date. The goal of the project was to refund taxable, variable rate demand bonds (\$15.2 million) with the issuance of tax-exempt, fixed rate bonds resulting in an estimated annual debt service savings and net present value savings of \$900,000 over the remaining life of the issue. The final issuance was for \$17.51 million of fixed rate, tax-exempt, tax allocation bonds and \$1.025 million of fixed rate, taxable, tax allocation bonds. The total debt service savings is \$2.3 million. Additionally, the issuance costs as cited above, total \$2.769 million (\$2.225 million interest rate swap (swap) termination fee and \$544,454 in true costs of issuance). An additional \$461,252 was deposited to the benefit of CIC projects, not for cost of issuing the bonds.

Terminating the taxable synthetic fixed rate swap and reissuing the debt as conventional tax-exempt fixed rate bonds was determined by the City team to be less expensive and less complicated than keeping the swap in place and shifting the basis for the fixed rate payment and keeping the savings. The new debt issuance allowed the principal payments to begin later thus reducing annual debt service costs in the early years of the financing.

Curative

Staff will consult with the bond team members to provide a summary review of the transaction and a report with this information will be presented to the Council.

Preventive

Seeking qualifications from underwriters, financial advisors, and other consultants is the recommended practice for complicated and/or serial transactions. For some transactions, however, competitively bidding the transaction, and thereby the underwriter, is the preferred method. All of these issues will be reviewed and a recommendation made to the City Manager, City Treasurer, and City Auditor prior to a selection being recommended to the Council.

CITY OF ALAMEDA
MEMORANDUM ON INTERNAL CONTROL STRUCTURE
JUNE 30, 2004

The goal of each financing, whether it is the initial or a subsequent refinancing, will continue to be delineated in staff reports. As the work proceeds, Council will be kept informed of progress as measured against the goal. After issuance, a final memorandum will be issued to the Council (CIC/ARRA) detailing the deal points and measure of success against the original goal.

Budget

Every other year the City prepares two annual budgets for the coming two years. The 2004 fiscal year was the second year of this two-year budget process. We noted many significant differences between the final adopted budget, as amended, and the actual line items for the year. When we inquired as to the reasons for the differences, in many instances we were told that the event was not anticipated at the time the budget was prepared. An effective budget is an essential management tool; therefore, the City's method of preparing the biennial budget should be evaluated as to its effectiveness. Additionally, many of these budget variances were known at the time the City proposed its mid-year budget revisions; therefore, it should be determined why these items were not included in this process.

We have listed some of these items below.

- West End Community Improvement Area: the annual surplus Special Assessment Tax revenue of approximately \$320,000.
- Business and Waterfront Improvement Area: Bridgeside shopping center rental income and property management fees revenue of approximately \$740,000, and cost associated with managing the property \$945,000.
- Alameda Point Improvement Project Area: increased salary costs of \$74,000 due to the addition of a second housing manager.
- Tidelands fund: rental income due from previous years and as a result of rent increases \$150,000
- Curbside Recycling: charges for services and general government expenditures retained the budget amounts of approximately \$1.8m each for contractual Waste/Recycling services no longer in effect.
- Garbage Surcharge fund: actual tax revenue was \$117,000 higher than budgeted, as the budget did not have an accurate basis.
- Athletic Recreation fund: charges for current services were \$447,000 higher than budgeted, as the budget did not have an accurate basis.
- Equipment Acquisition fund: general government expenditures were \$95,000 lower than budgeted, as the budget did not have an accurate basis.

Staff Response

The assessment of the situation is accurate.

Curative

The above-cited items were as of June 30, 2004. There is no "cure" at this date.

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Preventive

All funds are monitored quarterly for deviations from budget. Affected departments are consulted and quarterly amendments to the budget are brought to the Council. Further, all reports to Council (CIC/ARRA) are being monitored for budget impacts requiring amendments.

Information Systems Security Management

Information Systems now form the backbone of the City's operations. The center of the City's information system is the Citywide network. There are also the specialized systems used such as the financial accounting system and public safety systems, which contain confidential information, and auxiliary systems such as those in use by the golf course and the recreation department.

The City's Information Technology Department appears to be well-trained, competent, and responsive to user needs for assistance. However, there does not appear to be sufficient staff to serve the City's needs beyond "customer service" and basic system maintenance. Other possibly critical tasks, such as an information system security review and ongoing security management, are not being performed at optimal level, as there has not been sufficient time available after meeting ongoing operational needs. The City has developed an informal information systems security policy. However, at the current staffing levels the information technology department is forced to be reactive instead of proactive. Without a formal, written, management-supported, employee-trained, continually updated and enforced Information Systems Security Policy it is not possible to determine if too little or too much control is in place. Due to circumstances of an event they are responding to, security decisions may be made by information technology technicians or contractors, who may not be aware of all the security or legal ramifications of their actions. We understand that with the current budget cuts a system that appears to working "ok" may not be considered for additional funding. However, the City should determine how vulnerable its information system is and then determine if there is a cost benefit to increased staffing and increased security.

Staff Response

There is no simple policy that covers all the areas of information systems security. Anything related to security requires full organizational commitment and complete support from top officials. The steps to implement such new policies would be: 1) discussion and review with the IT Technical Advisory Team; 2) discussion and review with the Technology Management Team; 3) overview by the City Manager and 4) an off-agenda report to City Council. In addition to the creation of policies, there is the ongoing enforcement of them, with meaningful consequences for policy violations. This requires a minimum of one dedicated, trained individual and appropriate security software application tools.

In 2003, the California Counties Information Services Directors Association created a "Best Policies" guide for County Information System Security. This guide was shared with municipal agencies under the direction of the Chief Information Security Officer of Contra Costa County. Listed below are its recommended areas for formal information security policies. A brief overview is provided stating what the City of Alameda has in place and future plans for improvement.

Curative and Preventive Plan

(note- > denotes preventive plan):

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Acceptable Use Policy

- Formal Policy is in place – this type of policy relates to the use of systems in a normal business environment and the consequences related to misuse.
- Currently addressed by Management Practice (MP) 29 – Non-Confidential Nature of City Computer, Telephone and Mail & MP 32 – Use of Electronic Systems. All new employees (full time, part time or volunteer) are required to read these documents and sign a document attesting to this.
 - Developed in 1995 and 1996 then upgraded in 2001 and 2002 respectively, these documents provide a good base but do not formally address many of the new security issues facing all organizations.
- Review and update of MP 29 and MP 32 to be completed by July 2005.

Business Continuity Policy

- No formal policy exists but a plan is under development – this type of policy relates to the format in which an organization will respond to any type of disruption in service.
 - The last time this was addressed was during the Y2K buildup. Key areas were identified only as to their ability to make the jump from 1999 to 2000 and what steps would be taken if the identified systems could not make the jump.
 - The City of Alameda is now working with consultants from the City of Palo Alto to create a Business Continuity Plan. This endeavor requires a number of dedicated hours for departmental interviews, compilation of data and preparation. This plan is expected to be complete by the end of March 2005.
- Formal policy should be created –*In the last several months Marriott's risk manager, Bradley Wood, has been promoted to senior vice president of risk, apparently in part because of the company's commitment to Business Continuity. "Planning for business interruption is not only a good business; it's a fiduciary responsibility."* It requires full organization commitment and may need to address non-IT functions such as handling the need to physically relocated personnel. Policy could be ready for review by December 2006.

Development Life Cycle Policy

- No formal policy exists – this type of policy relates to the development of custom programs by in-house programming staffs.
 - The City of Alameda does not have formal programming staff dedicated to creating custom programs.
 - The City of Alameda does have individuals capable of creating simple program routines to enhance day-to-day operations.
- A policy should be created to protect the interests of the City and the security of the networks when such routines are created and implemented. There is no scheduled timetable for this item.

E-mail Policy

- Informal Policies do exist for email – this type of policy covers the use of email within an organization.
 - Novell Groupwise is our email standard.
 - All employees, with the okay from their supervisors, are allowed to have a City email account.
- No formal policy exists except for a reference on email retention in MP 32.
- The IT Department is in the process of creating policies that identify what our standards are and how users are added and deleted. Policies will also address remote access issues such as WebAccess.
- Other email related policies will address filtering for viruses and spam.
- Policies to be ready for review by March 2005 but will require enforcement and monitoring.

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Incident Response Policy

- No formal policy exists – this type of policy relates to what constitutes a security breach and what to do if one occurs.
- Need to analyze areas of vulnerability and create a response policy.
- No scheduled timetable for this item.

Information Classification Policy

- No formal policy exists - this type of policy helps agencies to identify types of data and how they should be accessed, stored and protected.
 - Examples: Private and Confidential, Restricted, Protected, Intellectual Property, Public
- Analysis of our current information asset is an organization-wide project and will take time to complete. Policies should be created to protect both electronic and paper-based City information.
- No scheduled timetable for this item.

Logon Banner Policy

- No formal policy exists - this type of policy allows for a system wide personal responsibility message to pop up each time an employee accesses the system.
- This is a good way to reinforce information to a wide group of users, however, users become numb to a daily message and tend, at times, to disregard. Needs to be studied.
- No scheduled timetable for this item.

Master Security Policy

- No formal policy exists – this type of policy relates to how the organization handles information security as a whole and primarily identifies the key individuals and support policies needed to be effective.
 - This directly relates to the auditors' recommendation.
- This policy will be an exercise in futility if there is no organizational or top leadership commitment and no method or staff to monitor and enforce.
- No scheduled timetable for this item.

Password Policy

- Informal policy exists only – this type of policy relates to how passwords are used, types of passwords and the importance of them.
 - All major systems require the use of a password with an associated user ID.
 - Network passwords change every 90 days.
 - Network system does have an intruder lockout parameter when someone tries to login incorrectly three times – system will release lockout after 30 minutes or requires IT intervention to re-enable within the 30 minute time period.
 - All passwords must be more than four characters.
 - Some passwords are required to be in alpha/numeric format.
- Creation and adoption of formal policy to be in place by September 2005.

Perimeter Policy

- No formal policy exists - this type of policy identifies what can and cannot access the network systems including, but not limited to, access through the firewall and people bringing in personal equipment to attach to the City network.
- Policy is needed but very hard to enforce as this requires additional staff time, full cooperation by all departments and employees as well as high end security monitoring software.
- No scheduled timetable for this item.

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Physical Security Policy

- Informal policy only – this type of policy relates to location security as well as the protection of inventory.
 - All main server rooms must be locked at all times.
 - Only authorized individuals allowed in rooms or near servers.
 - Desktop machines to shutdown every night.
 - Key card access to main server room.
- Challenges exist with our main server room as it is not normally occupied and in a facility separate from the offices of the IT staff – should have camera monitoring but no monies exist at this time.
- Other formal physical security policies would address such areas as use of alarms or inventory systems such as bar code readers for all technology items. This conflicts with the fixed asset policy as most equipment is well under its \$5,000 to \$10,000 minimums but with the proliferation of portable items in the \$200 to \$300 range (such as cell phones and PDAs) it is important to track their existence and use.
- No scheduled timetable for formal policy.

Privacy and Confidentiality Policy

- No formal policy - this type of policy would cover what should be protected such as the use of encryption for very sensitive documents.
- No scheduled timetable for this item.

Remote Access Policy

- Informal Policy – this type of policy relates to how access is allowed to the City network from the outside.
 - City has firewall protection in place.
 - Virtual Private Network access not allowed.
 - Remote email access allowed via WebAccess.
 - Some monitored remote access allowed for vendors providing system maintenance.
- No scheduled timetable for formal policy.

Risk Assessment Policy

- No formal policy – this type of policy would outline how an organization addresses areas of potential risk.
- Requires dedicated personnel to identify risks to information systems and information.
- Necessary to work with City Risk Manager.
- No scheduled timetable for formal policy.

Security Awareness, Training, and Education Policy

- No formal policy – this type of policy relates to getting a controlled and consistent message on security out to the employees.
- Booklet outlining everyone's responsibility in the area of security to be issued by end of March 2005.
- No scheduled timetable for formal policy.

Software Copyrights and Licensing Policy

- Informal policy only – this type of policy protects the organization from misusing software programs.
 - IT requires that every desktop have legal licenses for any software installed.
 - A copy of the license of any software on a City computer should be sent to IT if a department has bought on its own (though a formal policy would not allow any department to purchase their own software nor install it).
- No scheduled timetable for formal policy.

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Virus Protection Policy

- Informal policy only – this type of policy outlines the need for and steps to take in the area of virus protection.
 - All servers, desktops and laptops must have virus protection software.
 - Virus signatures updated daily.
 - Filtering on all emails.
- No scheduled timetable for formal policy.

Debt Reserve Compliance

The City is required to maintain certain reserve funds for some of its outstanding debt issues. For those issues, we compared the stated reserve amount required with the actual reserve amounts. There are two debt issues for which the reserve amount per the Trustee Statements appears to be less than the required amount. The City should not rely on the Trustee holding these funds to maintain reserve requirements; the responsibility for verifying the reserve balances should be assigned to a responsible City employee. The City must also restore these reserve balances to the required levels to avoid being in default on the debt covenants.

Staff Response

The root cause of this failure to be in compliance was a lack of understanding and training.

Curative

Staff has since reviewed these requirements and brought the funds into compliance.

Preventive

All debt service working schedules will include the debt service reserve requirement. Trustee statements will be monitored on a monthly basis for compliance. Action will be initiated if the reserves move out of compliance.

Inter-Department Communication

The City of Alameda's operations and departments have grown to the extent that it is not possible or practical to house all departments within the main city hall. This separation however, has led to individual departments acting more independently of other departments than may be beneficial. We understand that it is usually more expedient to act independently than to involve other departments in decisions. However, many decisions made by individual departments have financial ramifications that are only made known to the Finance Department after the decisions are made. In addition to the necessity of Finance Department involvement, the Finance Department staff also have skills that are valuable to proper decision making. The City should evaluate its current decentralized environment and determine how best to integrate essential departments in critical decision making.

Staff Response

Decentralization of large staffs seems to be typical of all organizations. The critical key to success is communication. The Finance Department has partners throughout the organization. These employees work cohesively with us for best results. The Financial Management Team has members from Housing Authority,

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Alameda Power & Telecom, and Development Services. This Team engages in the basic communication regarding financial issues including budgets, purchasing, and related policies.

Curative and Preventive

Certainly, the City Manager's role is to effectively organize the staff to efficiently provide expected results. Given the transition at that position, no major changes are recommended at this time. However, the Financial Management Team will be used to effectively communicate throughout the organization.

Effective communication is the key to cohesive action. This must be based upon trustful relationships among department heads and partner staff members.

Internal Auditor & Treasurer

The City has the benefit of both an elected Internal Auditor and Treasurer. These individuals are a valuable resource to the City that may be underutilized. These individuals should be consulted when there is a question of financial consequence.

Staff Response

The statement is a truth. However, it does not account for the continued involvement of both parties in the ongoing work of the Finance Department.

Curative and Preventive

The Council has requested that staff work with the City Auditor in the preparation of an Annual Audit Plan. That work is underway. The Council requested the implementation of a 10-Year Financial Model. Both the Auditor and Treasurer reviewed and commented on the proposed scope of work. Their insights will be vital in the review of the final product. The Treasurer continues to provide oversight of the Investment portfolio. The Auditor is called upon for a variety of accounting issues during the year. All of these steps will continue and new ones added as they arise.

Fund Balance Deficits

The City has several funds that currently have ongoing fund deficits. The City should analyze the operations of these funds, determine the cause of the deficits, and develop a plan to eliminate these deficits within a given time period.

Staff Response

There are three categories of funds with deficits: Redevelopment (CIC and FISC), Internal Service Funds, and Special Revenue (Narcotics Asset Seizure Fund).

Curative

The Narcotics Asset Seizure Fund is dependent upon the actions of other agencies. The Police Department has requisitioned their share of funds that are in excess of the deficit fund balance. The timing of the receipt is unknown, however.

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Work has been ongoing to cure the deficit in the Dental Self-Insurance fund. It is anticipated that the deficit will be eliminated or a very small deficit at June 30, 2005 and a positive fund balance by June 30, 2006. The Workers' Compensation Fund has an actuarial review scheduled. Based on those results, an internal rate review for the upcoming budget cycle will be done. A portion of the loss reserve may remain unfunded, as not all claims will be paid in any single year. There is no statutory requirement to completely fund the loss reserve.

The CIC and FISC funds are not anticipated to recover until (re)development generates tax increment. Before the fiscal year end, documentation as to fund status will be developed.

Preventive

During the mid-year budget review, all funds with prior year negative fund balances and current year projected negative fund balances will be reviewed with the managing department head. An action plan for correction or an acknowledgement of the continuing deficit and a forecast for recovery will be documented.

**CITY OF ALAMEDA
MEMORANDUM**

DATE: January 12, 2005

TO: Honorable Mayor and Members
of the City Council

FROM: William C. Norton
Interim City Manager

RE: Discussion Regarding options for relocation assistance legislation, and temporary moratorium on all new construction, condominium conversion, and demolition in the "West End Atlantic Corridor Area" (area bounded by Webster Street, Main Street, Pacific Avenue and Ralph J. Appezzato Memorial Parkway)

Background:

This item was agendized at the request of the City Council on December 21, 2004.

The draft Ordinance (Attachment A) follows the outline of issues requested to be considered by the Harbor Island Apartment Tenants' Association (HIATA) attorney, Gen Fujioka, regarding what might trigger the payment of relocation assistance. The draft Ordinance also models other California relocation assistance ordinances, including those of the cities of Glendale, Oakland and Berkeley. These cities also have either rent control and/or just cause eviction ordinances/regulations.

In addition, the HIATA has asked for interim development controls in the West End Atlantic Corridor Area to help prevent a repeat of the mass evictions at Harbor Island Apartments.

Also attached (Attachment B) is a status report on the Rent Review Advisory Committee showing only a handful of complaints in the past few years, and only one, which was successfully resolved, in 2004.

Discussion:

RELOCATION ASSISTANCE ORDINANCE

The Relocation Assistance Ordinance ("the Ordinance") provides that relocation assistance shall be paid by a landlord to a "qualifying tenant" who is evicted under certain circumstances. The Ordinance defines which kinds of tenancy terminations

qualify as "no-fault evictions" and may entitle a "qualifying tenant" to relocation assistance. The Ordinance does not create a "just-cause" standard for eviction. Enforcement of the tenant's rights under the Ordinance is a private right of the tenant, which the tenant can enforce in court, including small claims court.

The obligation for a landlord to pay relocation assistance to a tenant only applies to rental complexes containing at least 40 units. Hotels, care facilities, Housing Authority properties, and Alameda Point Collaborative properties would not be obligated to provide the relocation payments.

A tenant of a 40-unit complex is a "qualifying tenant" if all of the following apply: the tenant is low income; the landlord has, in the past 60 days, already served no-fault eviction notices on an initial number to be determined, of tenants in the rental complex; at the time the eviction notice is served, the landlord has at least an initial number, to be determined, of vacant units in the complex; at the time the eviction notice is served, the landlord fails to offer the tenant a comparable rental unit in the complex to which to relocate. These "qualifying tenant" standards mean that no tenant in a complex less than 40 units would qualify for relocation assistance. Also, in a complex of 40 or more units, the initial number to be determined "no-fault" evictions within a 60 day period would not be "qualifying" for the relocation assistance. The amount of the relocation assistance is proposed to be two times the amount of the monthly rent paid to the landlord for the rental unit being vacated; alternatively, the Council could determine a set amount for the relocation assistance payment.

The relocation assistance Ordinance also specifies that some evictions are not subject to payment of the relocation assistance, including evictions where the tenant has failed to pay rent or otherwise breached the lease/rental agreement, or has permitted a nuisance to exist on the property.

The relocation assistance Ordinance would not be retroactively applicable, if adopted, because imposing liability for past conduct (evicting tenants) which was not originally subject to such liability is generally unlawful.

Also, no moratorium on evictions is being proposed as a component of a draft "relocation assistance" ordinance because evictions are regulated by state law, which the City may not subject to a moratorium, and the City has no relevant rent control or just cause ordinance against which a moratorium may be placed.

The relocation assistance Ordinance is currently proposed to provide relocation assistance payments on behalf of the landlord to low-income tenants, only. This is because the findings which can be made most clearly support limiting such assistance to low-income tenants, who have a more difficult time finding affordable replacement housing in the Bay Area, which in turn, can have a negative impact on the health, safety and welfare of City residents generally. The Ordinance could be drafted to remove the "low-income" standard from the "qualifying tenant" definition, such that tenant income

level was not a relevant factor in determining eligibility for the relocation assistance. If this is desired, revised findings will need to be drafted.

MORATORIUM ON NEW CONSTRUCTION

In a second issue, HIATA has asked for discussions of a moratorium on new construction, condominium conversion, and demolition, which would initially last for 45 days, but could be extended, by the Council at public hearing, for up to two years. The purpose of this emergency ordinance is to preserve existing apartments or new land for affordable housing. A copy of their proposal is attached (Attachment C).

With respect to a moratorium on all demolitions of existing structures, new construction of any structures outside of the envelopes of existing structures, and all new subdivisions within the boundaries of the City, such moratorium would require a number of things.

First, the City Council would have to find that the uses against which the moratorium would apply (approval of all demolitions, new construction, and subdivisions) would be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council, the Planning Board, or the Planning and Building Department is studying or intends to study within a reasonable time.

Second, the City Council would have to find that the approval of demolitions, new constructions, and new subdivisions, as otherwise permitted by the municipal code, would result in an immediate threat to public health, safety, or welfare.

The findings should be based on reliable evidence, the threat to the public health, safety, and welfare of the City should be articulated as specifically as possible, and the moratorium should be framed narrowly so as to focus only on averting the identified ill effects to the City. It should be noted that a moratorium may not apply to the processing of development and other applications, only to their final approval.

It should be noted that the proposed moratorium would apply to almost all development activity in the City. For such moratorium to be legal, specific findings would have to justify such moratorium. The extent of any findings must correlate with the reach of any moratorium, i.e., the greater the moratorium, the need for more findings.

Moreover, because a moratorium imposes more stringent temporary land use controls than are usually provided in the municipal code, it is possible that, even if such findings are made, a moratorium could be subject to a constitutional challenge on grounds that it is a "taking" of a property right, a denial of equal protection, and/or a denial of due process.

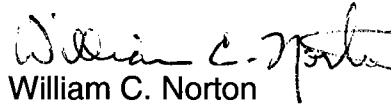
Budget/Financial Impact:

The financial impact would be staff time, already budgeted but assigned to other projects. Because this Ordinance would create a private right of enforcement for a "qualifying tenant," with no corresponding discretionary or enforcement role for the City, there would be no impact on the General Fund.

Recommendation:

This report is provided is for informational purposes only. If the Council wants to proceed on either of these ordinances, staff will bring them back to the Council at the meeting of February 1, 2005.

Respectfully submitted,


William C. Norton
City Manager

WCN:th:cj:cdb

Attachments

- A) Draft Ordinance
- B) RRAC's report of 1/10/05
- C) HIATA's Proposal of 1/7/05

DRAFT

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY ADDING A NEW
ARTICLE XIII (RELOCATION ASSISTANCE TO EVICTED TENANTS) TO
NEW SECTION 6-56 (RELOCATION ASSISTANCE) OF CHAPTER VI
(BUSINESSES, OCCUPATIONS AND INDUSTRIES)

BE IT ORDAINED by the Council of the City of Alameda that:

Section 1. The Alameda Municipal Code is hereby amended by adding a new Article XIII (Relocation Assistance to Evicted Tenants) to New Section 6-56 (Relocation Assistance) of Chapter VI (Business, Occupations and Industries) to read as follows:

ARTICLE XIII
RELOCATION ASSISTANCE TO EVICTED TENANTS

6-56 RELOCATION ASSISTANCE

6-56.1 Title/Purpose.

a. This article shall be known as the “City of Alameda Tenant Relocation Assistance Ordinance.”

b. The City Council finds and declares that increasing demands for rental housing in the City may result in very low vacancy rates. When low-income tenants are evicted without fault of the tenant, the search for replacement affordable rental housing may be very difficult and relocation costs may be considerable. This circumstance may be disruptive to a stable living environment and may have a detrimental effect on renters in the city, particularly those with low incomes.

c. The City Council further finds and declares that, to protect the health, safety, and general welfare of the residents of Alameda and to ensure that all residents of the City have a safe, habitable, well-maintained, and stable housing, the city council enacts this article and encourages property owners to provide well-maintained and affordable living units.

d. The City Council further finds and declares that nothing in this article either requires “just cause” to support a tenant eviction or alters the rights of a landlord to bring an action to evict a tenant or any other action pursuant to California Civil Code section 1946. This article pertains only to relocation assistance.

6-56.2 Definitions

Except where the context plainly requires otherwise, the following definitions shall govern the construction of this article:

Eviction shall mean any action taken by a landlord to remove a tenant involuntarily from a rental unit and to terminate a tenancy, whether pursuant to a notice to quit, by judicial proceedings, or otherwise. A landlord's action to not renew a tenancy, where the tenant in good faith wishes to have the tenancy renewed, is considered an eviction for purposes of this article.

Landlord shall mean any person, entity or property owner offering any residential property in the City for rent or lease.

Rental complex shall mean one or more buildings used in whole or in part for residential purposes, located on a single lot, contiguous lots, or lots separated only by a street or alley, excluding buildings occupied solely by owners, such as single family residences and condominiums in which no unit is occupied, or held out for occupancy by a tenant.

Rental unit shall mean a dwelling unit rented or available for rent in the city together with the land and buildings appurtenant thereto and all housing services, privileges and facilities provided in connection with the use or occupancy thereof, which unit is located in a rental complex of 40 or more units, regardless of whether the unit was created in violation of law.

The term "rental unit" shall not include any of the following: (1) accommodations in hotels, boarding houses, or lodging houses subject to the transient occupancy tax imposed by section 3-61 of this code; (2) accommodations in a hospital, convent, monastery, church, religious facility, extended care facility, asylum, or non-profit home for the aged; (3) dormitories owned and operated by an educational institution for accommodation use of its employees and students; (4) rental units owned or operated by any government agency; or (5) rental units that require an occupancy agreement that obliges a tenant to receive social services which address non-housing needs, including but not limited to intake, case management or counseling.

Tenant shall have the meaning provided by California law.

6-56.3 No Fault Evictions

An eviction for any of the following reasons, provided that the motivation is in good faith and is not mere pretext, constitutes a "no fault eviction" for purposes of this article:

- a. The landlord seeks to recover possession to demolish the rental unit.
- b. The landlord seeks to recover possession to perform work on the building or buildings housing the rental unit or units, such work costs not less than eight (8) times the monthly rent times the number of rental units upon which such work is performed or which are to benefit from the work, and the work will render the rental unit uninhabitable for a period of not less than thirty (30) days, provided, however, that if the landlord seeks to recover possession to convert the rental unit into a condominium, cooperative or community apartment, the landlord must comply with the notice requirements of Government Code section 66427 and section 30-81.8(e) of this code. For purposes of this paragraph b, the monthly rent shall be the average monthly rent paid in the preceding twelve (12) months.

c. The landlord seeks to recover possession of the rental unit for use and occupancy by a resident manager, provided that no alternative vacant unit is available for such occupancy; provided that where a building has an existing resident manager, the owner may only evict the existing resident manager in order to replace him or her with a new manager.

d. The landlord seeks to recover possession of the rental unit for use and occupancy by the landlord, or the landlord's spouse, grandparents, sibling, in-laws, child or parent. A landlord may recover possession under this paragraph d for use and occupancy by the landlord, or the landlord's spouse, grandparents, sibling, in-laws, child or parent only once for each such person or household in each rental complex owned by the landlord.

e. The landlord seeks to recover possession of the rental unit for use and occupancy pursuant to an occupancy agreement that obliges a tenant to receive social services which address non-housing needs, including but not limited to intake, case management or counseling.

f. The landlord seeks to recover possession to permanently remove the rental unit from rental housing use as permitted by state law.

g. The landlord seeks to recover possession of the rental unit to comply with a government agency's order to vacate.

6-56.4. Other Evictions

An eviction for any of the following reasons, provided that the motivation is in good faith and is not mere pretext, is not a "no fault eviction" and does not trigger a duty to pay relocation benefits under this article:

a. The tenant has failed to pay the rent to which the landlord is entitled.

b. The tenant has violated a lawful obligation or covenant of the tenancy and has failed to cure such violation after having received written notice thereof from the landlord, other than a violation based on the obligation to surrender possession upon proper notice.

c. The tenant is permitting a nuisance to exist in, or is causing damage to, the rental unit, or creating an unreasonable interference with the comfort, safety, or enjoyment of any other person who resides in the rental complex or within one thousand (1,000) feet of the parcel on which the rental complex is located. As used in this paragraph c, "nuisance" includes, but is not limited to: (1) any gang-related crime and (2) any documented activity commonly associated with illegal drug dealing including, but not limited to complaints of (a) noise, (b) steady traffic day and night to a particular unit, (c) barricaded units, (c) sighting of weapons, (d) drug loitering as defined in California Health and Safety Code Section 11532, or (e) other circumstances brought to the attention of the landlord by other tenants, persons within the community, law enforcement agencies or prosecutorial agencies suggestive of illegal drug dealing. As used in this paragraph c, "gang-related crime" means any crime in which the

perpetrator is a known member of a gang, or any crime motivated by gang membership in which the victim or intended victim of the crime is a known member of a gang.

d. The tenant is using, or permitting another to use, a rental unit or an area within one thousand (1,000) feet of the parcel on which the rental complex is located, for any illegal purpose. The term “illegal purpose” as used herein, includes, but is not limited to violations of the provisions of Division 10 through 10.7 of the California Health and Safety Code regarding illegal substances.

e. A person in possession of the rental unit at the end of a lease term is a sub-tenant not approved by the landlord.

f. The tenant has refused the landlord reasonable access to the unit for repairs or improvements, or for any other reasonable purpose as permitted or required by the lease or by law, or for the purpose of showing the rental unit to any prospective purchaser or mortgagee.

g. The landlord seeks to recover possession of the rental unit to comply with a contractual agreement relating to the qualifications of tenancy with a governmental entity, which qualifications the tenant does not possess.

6-56.5 Qualifying Tenant

a. “qualifying tenant” is a tenant entitled to relocation assistance under this article because all of the following circumstances exist:

b.. The tenant’s household is a lower-income household, as that term is defined by California Health and Safety Code Section 50079.5.

c. At the time the tenant receives a no fault notice of eviction, the landlord has issued ____ or more no fault notices of termination, or has failed to renew ____ or more tenancies in the rental complex within a sixty (60) day period.

d. At the time the tenant receives a no fault notice of eviction, there are at least ____ vacant rental units in the rental complex.

e. At the time the tenant receives a no fault notice of eviction, the landlord does not offer the tenant a rental unit in the rental complex comparable to that to be vacated on terms comparable to those of the tenancy sought to be terminated.

6-56.6 Relocation Fee

a. A landlord shall pay a qualifying tenant a relocation fee in the amount of two (2) times the actual monthly rent paid to the landlord of the rental unit being vacated.

b. The relocation fee shall be paid as follows:

1. The entire fee shall be paid to a qualifying tenant who is the only tenant in a rental unit; or

2. If a rental unit is occupied by two (2) or more qualifying tenants, then each qualifying tenant of the unit shall be paid a pro-rata share of the relocation fee. Only those qualifying tenants who have a written or oral agreement with the landlord for possession of the rental unit or who have paid rent to the landlord shall be entitled to a pro-rata share of the relocation fee.

6-56-7 Procedure

a. Prior to or simultaneously with service of a written notice of termination pursuant to Civil Code Section 1946 or a three-day-notice pursuant to Code of Civil Procedure Sections 1161 and 1161(a) on a tenant of a rental unit, a landlord shall provide the tenant a written notice setting forth the eligibility requirements for receiving relocation assistance under this article.

b. A tenant who believes that he or she is a qualified tenant entitled to relocation assistance under this article must request relocation payments from the owner in writing within sixty (60) days of receiving the notice required by paragraph (a) of this subsection and shall be conclusively deemed to have waived any such entitlement if he or she does not timely do so.

c. Upon written request of a landlord, a qualified tenant seeking relocation assistance shall provide the landlord substantial evidence that the qualified tenant's household is a lower-income household as required by subsection 6-56.050(a) of this article.

d. A landlord shall maintain the confidentiality of any information submitted pursuant to paragraph c of this subsection unless: (1) there is litigation or an administrative proceeding regarding the tenant's eligibility for relocation payments, or (2) production of the information is sought by a subpoena or court order, provided that notice to the tenant and an opportunity to object is provided as required by the Code of Civil Procedure 1985.3 or other applicable law.

e. A landlord shall pay a qualifying tenant the relocation fee required by this article within fifteen (15) days of receiving a complete request, including any information requested by the landlord under paragraph c of this subsection.

f. A landlord may pay the relocation fee to the landlord's attorney or to an escrow account with instruction to disburse the fee to the tenant entitled to it upon vacation of the rental unit, provided that the instruction also requires payment prior to vacation of the rental unit of

relocation expenses incurred by the tenant prior to vacation, including but not limited to security deposits, deposits with movers, and utility connection charges.

g. Nothing in this article relieves a landlord from any obligation to provide relocation assistance pursuant to any other provision of law. However, any money paid pursuant to such another legal obligation shall reduce the relocation benefits required by this article on a dollar-for-dollar basis.

6-56.8 Retaliation Prohibited

No landlord may retaliate, or threaten to retaliate against a tenant, by refusing to rent a rental unit to a tenant or in any other, because a tenant exercises or seeks to exercise any right provided by this article.

6-56.9 Private Right of Action; Attorney's Fees

In addition to any other remedy available to a tenant in law or equity, a tenant may seek enforcement of any rights provided by this article in any court of competent jurisdiction. The prevailing party in such an action shall be entitled to recover reasonable attorney's fees and costs incurred with respect to the action.

6-56.10 Effective Date of Section

The requirements of this Section and the availability of the remedies hereunder shall be applicable to notices to quit or terminate tenancy served on or after _____, 2005.

Section 3. Severability. Should any provision of this Ordinance or its application to any person or property be found by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions hereof shall be enforceable according to their terms and to that end the provisions of this ordinance are severable.

Section 4. Construction. To the extent the provisions of the Alameda Municipal Code as amended by this ordinance are substantially the same as the previous provisions of that Code, they shall be construed as continuations of those previous provisions and not as new enactments.

Section 5. This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the _____ day of _____, 2005, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this _____ day of _____, 2005.

Lara Weisiger, City Clerk
City of Alameda

CITY OF ALAMEDA

MEMORANDUM

To: William C. Norton
Interim City Manager

From: Carol Beaver
Community Development Manager

Date: January 10, 2005

Re: Rent Review Advisory Committee Role and Activity Status

The Rent Review Advisory Committee (RRAC) was formed in 1979, by motion of the City Council, to review complaints of significant rental increases. The RRAC evaluates increases imposed on in-place renters, provides a neutral forum for renters and property owners to present their views, and attempts to mediate a fair agreement between the parties. As needed, it also advises the City Council regarding rental increases in Alameda. Issues related to habitability and tenants' rights are typically referred to Building Inspection and/or Sentinel Fair Housing, since the RRAC deals only with rent increases.

Since its inception, the RRAC has heard more than 260 cases, many of which involved multiple units and households. Through a public mediation process, the Committee has successfully negotiated rent rollbacks or reductions for a majority of the tenant households who have sought their assistance. The RRAC is a widely acknowledged success that has been studied and/or copied by a number of communities as an alternative to stricter forms of rent regulation.

At the high point of the rental market in 2000, the RRAC mediated 46 cases involving 716 renter households. Of 27 completed cases (some were withdrawn by the tenant and some had increases found to be reasonable) 24 (or 88%) resulted in significant concessions from the owner. In the first half of 2001, there were 14 cases and similar outcomes were achieved. Shortly thereafter the rental market experienced a significant slowdown from the statewide recession, and complaints inquiries fell off precipitously. The RRAC has received only a handful of complaints in the past several years, and only one, which was successfully resolved, in calendar year 2004.

A Council Resolution affirming support for the RRAC, adopted in July, 2001, is attached for your information.

CB:cb

Attachment

Dedicated to Excellence, Committed to Service

Attachment B

CITY OF ALAMEDA RESOLUTION NO. 13372

AFFIRMING SUPPORT FOR
CITY OF ALAMEDA
RENT REVIEW ADVISORY COMMITTEE

WHEREAS, the City Council believes that housing is a key element of the City of Alameda's economic health; and

WHEREAS, the City Council believes that fair rents and well-maintained rental housing properties contribute to the City's quality of life and benefit the community as a whole; and

WHEREAS, in 1979 the City Council, by motion, formed the Rent Review Advisory Committee (RRAC) in response to citizens' concerns regarding substantial rental increases; and

WHEREAS, the Mayor, with confirmation by the City Council, appoints seven volunteers, including three residential property owners, three renters and one neutral party, to serve for indefinite terms as members of the RRAC; and

WHEREAS, the purpose of the RRAC is to provide an orderly and neutral forum for the fair and expedient resolution of rental increase disputes; and

WHEREAS, the RRAC evaluates renter complaints regarding increases, determines whether they are equitable under the specific circumstances, and if not, attempts to mediate a resolution; and

WHEREAS, the RRAC has achieved a wide range of compromises, based on the specifics of each situation, to resolve rental increase disputes and maintenance concerns; and

WHEREAS, the voluntary and active participation of rental housing owners in the RRAC mediation process is the key to resolving rental disputes; and

WHEREAS, the RRAC has reviewed and formalized its practices and procedures to further engage rental housing owners in mediation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Alameda that we affirm the role of the Rent Review Advisory Committee in stabilizing Alameda's rental housing market over the long term and recognize that it has favorably resolved over 95% of its cases.

BE IT FURTHER RESOLVED that we encourage all owners of residential property in the City of Alameda to make fair and equitable rental increase decisions, to value their responsible and long tenured residents, to avoid displacement of Alameda families, and, if disputes arise, to participate fully and in good faith with the Rent Review Advisory Committee to resolve them.

* * * * *

Approved as to Form

Debra R. H. Smith
ASSIST. CITY ATTORNEY

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 17th day of July, 2001, by the following vote to wit:


AYES: Councilmembers Daysog, DeWitt, Johnson, Kerr and
Mayor Appezzato - 5.

NOES: None.

ABSENT: None.

ABSTENTIONS: None.

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 18th day of July, 2001.



Lara Weisiger, Acting City Clerk
City of Alameda

December 5, 2004

PROPOSED FAIR RELOCATION PRACTICES ORDINANCE.

Purpose:

Recent evictions of significant numbers of residents in Alameda illustrates the need for minimum standards for the provision of relocation assistance to tenants evicted from larger apartment complexes where those evictions are not the result of any tenant fault or breach of any apartment rule. Rising housing costs on Alameda has resulted in escalating costs for tenants needing to pay deposits, moving expenses, and increased rents. Relocation assistance reduces some of the human and social costs imposed by evictions and shifts some of those costs on to the property owners responsible for those evictions who may choose evictions over other less burdensome alternatives.

The proposed ordinance establishes a standard for fair relocation practices. It addresses situations where apartment management fails to mitigate the impact of its own eviction practices if alternatives are available. Apartments would *only* be required to pay relocation assistance in the event that managers elect not to take less extreme measures.

Protections in other cities:

Many other West Coast cities have relocation assistance requirements including Los Angeles, Santa Monica, San Francisco, Berkeley, and Seattle. Some relocation assistance requirements are incorporated within a rent control ordinance but it is not necessary to have rent control to require relocation assistance. Seattle does not have rent control but requires owners to obtain a 'relocation license' and to pay assistance.¹

In all cities, relocation assistance is not available if the eviction is justified by tenant misconduct or failure to pay rent.

A relocation assistance proposal for Alameda:

The present proposal would be far less restrictive than relocation assistance requirements in other cities. But it would provide a minimum standard for management practices in extreme cases. The proposal would:

- Limit the requirement to larger complexes with forty or more units.
- Require payment of relocation assistance to tenants served with terminations of tenancy providing thirty-days or more days notice ONLY IF ALL of the following conditions exist:

¹ The City of Alameda has a relocation ordinance but it only applies to units being converted into condominiums.

- an apartment issues four or more 'no-fault' notices of termination² either issued or expiring within any sixty-day period, or fails to renew the same number of tenancies within the same period,
- there are at least four vacant units in the apartment complex at the time that any of the 'no-fault' notices of terminations are in effect or the tenancies are not renewed,
- the owner does not offer the tenant the option of moving into a comparable vacant apartment unit in the complex at comparable terms (with moving assistance offered to seniors and disabled)
- Require payment of \$3200 per household living in a one bedroom or smaller and \$4200 per household for a two bedroom or larger.³
- Tenants should be entitled to remain in their unit until the owner complies with the law. Protections should also be included to prevent owners from evading the relocation requirements or from retaliating against tenants who seek rights under the ordinance.
- If the unit is re-rented within a fixed period of time, the original tenant should be offered the right of first refusal on the same terms as previously existed but at rents comparable with other similar units rented in the complex.
- The requirements of the ordinance should apply to all tenants who reside in their unit as of the effective date of the ordinance.

The actual mechanics for payment of assistance should be specifically defined and may adopt procedures from other ordinances.

² A 'no-fault' notice of termination is issued by a landlord where there is *no* allegation of tenant fault, i.e., non-payment of rent, violation of the lease, or commission of a nuisance.

³ Los Angeles requires payment of \$3200 for all households, with additional payments up to \$8000 for the disabled, elderly and low income but singling out disadvantaged tenants may have other unintended adverse consequences. San Francisco requires in renovation cases a minimum payment of \$1000 per household member (increased if the tenants must move more than three months) and in some other evictions, \$4500 per household plus \$2250 per senior or disabled resident.

**QUESTIONS AND ANSWERS ABOUT THE FAIR RELOCATION PRACTICES
PROPOSAL:**

Q: How does this proposal impact small property owners?

A: The proposal has no impact on small property owners because it only applies to properties with over forty units.

Q: Will this proposal penalize owners who want to renovate their buildings?

No. This proposal will cost responsible property owners nothing (or virtually nothing) because the relocation assistance would only be required *if* the owner chooses not to offer tenants an opportunity to move into a vacant unit *if* a vacant unit is available. If a vacant unit is not available then there is no requirement to pay relocation assistance. Only if the tenant who is asked to move to another unit is a senior or a disabled person would the landlord have to make arrangements to help that tenant move to the vacant unit—assistance that many responsible owners provide anyways.

Q: Will the proposal make it harder to evict tenants who don't pay the rent or who cause a nuisance for their neighbors?

Absolutely not. The proposal does not apply to evictions for non-payment of rent or failure to comply with apartment rules.

Q: Why does the law only apply to situations where there are four or more notices or terminations that expire in the same time period?

Managers may wish to terminate tenancies for a variety of legitimate reasons. This law does not regulate the reasons for evicting a tenant. It allows owners to evict up to three tenants for no cause in any two-month period without any stated reasons and without falling within the requirements of the law. The issuance of four notices in a two-month period raises concerns about the reasonableness of the evictions particularly if the owner has vacant units available. If an owner issues four no-fault notices every two months, over half of a forty-unit complex could be evicted within one year.

Q: Why \$3200?

Tenants who must find a new apartment are typically required to pay first and last months rent and a deposit. They also incur other costs for moving. The total generally exceeds \$3200. The amount could be higher or lower but the amount is an approximate average for a move to a modest one-bedroom. The sum is also the minimum amount required by the City of Los Angeles's relocation ordinance.

December 5, 2004

COMMUNITY PROPOSAL FOR INTERIM CONTROLS IN THE WEST END-ATLANTIC
CORRIDOR AREA

Cities have the power to adopt short term controls on development:

Cities have the power to adopt a development "moratorium" to delay approval for a development within a specified area. A moratorium allows for "breathing space" for the public to evaluate choices and decisions for the longer term. As the United States Supreme Court points out, moratoriums, or "interim development controls," are "an essential tool" to deal with development issues. (*Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency* (2002) 535 U.S. 302, 338, 122 S.Ct. 1465, 152 L.Ed.2d 517; see also *NJD, Ltd., v. City of San Dimas* (2003) 110 Cal.App.4th 1428, 2 Cal.Rptr.3d 818.)

State law expressly authorizes cities to adopt both regular zoning ordinances to regulate development as well as moratoria, known as "interim development controls." (Cal. Gov. Code §§ 65850, 65858.) Unlike regular zoning ordinances, which take effect thirty days after passage, interim ordinances take effect immediately upon a four-fifths vote by the City Council. (Cal. Gov. Code § 36937). Initially, interim controls only lasts forty-five days during which time the city must study the issues raised by the interim control ordinance. In order to extend the time beyond forty-five days, the City Council would need to conduct a public hearing and approve the extension by another four-fifths vote. Once adopted after a full public hearing, interim controls can remain in place for up to a total of two years.¹

The choice of whether to adopt a regular zoning ordinance or an interim control will depend on the urgency of the situation.

West End communities need interim controls to allow for meaningful neighborhood planning:

The recent upheaval at the Harbor Island Apartments demonstrates the urgent need to evaluate the efficacy of existing city policies to preserve affordable housing and existing communities particularly in the West End. As the city has noted in its arguments to the court, the West End Redevelopment Project and other city initiatives have altered the real estate market in the area. The evictions at Harbor Island Apartments are only the beginning of more widespread impacts in the neighborhood. Interim controls will enable the city and the neighborhood to consider those potential impacts before it is too late.

Some of the potential negative results that could occur unless interim controls are adopted include:

- New construction of facilities may reduce open areas while increasing the intensity of use without adequate planning or appropriate design.
- Demolition of affordable housing without any mitigation or replacement of lost units.

¹ A sample interim control ordinance adopted by the City of San Francisco for the very large Mission-Potrero Hill areas will be included the final draft.

- Conversion of rental housing into condominiums in a manner that circumvents existing conversion controls resulting in displacement of vulnerable populations without adequate assistance and the permanent loss of rental housing.²

Each of these impacts has the potential for adversely affecting health, safety, or the general welfare of residents and persons in the neighborhood both in the short and longer term.

West End-Atlantic Corridor interim control and study area:

The area bordered by Main, Atlantic, Webster, and Pacific is the neighborhood most likely to be impacted by changes brought about by the West End Redevelopment Project Area. The area is most proximate to the redevelopment project and has a higher concentration of renters, low income households, and African American households than the city as a whole. The area also lies along the main corridor leading to the Alameda Point Redevelopment area.

Activities subject to interim controls:

Interim controls are intended to allow for greater public input and study before irreversible changes proceed in a specified area. Some of the activities that should be controlled for the study period should be:

- all demolitions of existing structures (with the exceptions noted below);
- new construction of any structures outside of the envelopes of existing structures;
- all new subdivisions.

Interim controls need not stop all construction activity in an area. In this case the controls should expressly exempt remodeling, renovations, or repairs contained entirely within existing structures or included as a part of an existing single family home. The controls should also exempt alterations to facades or signage on existing commercial uses.

During the study period, the city should conduct community meetings and examine the adequacy of existing policies that protect and enhance the health, safety, and welfare of the residents and the community as a whole.

² E.g., Existing Municipal Code Chapter 30-8, does not anticipate displacement (i.e., evictions) of residents from rental units prior to an application for conversion to condominiums. Hence, the existing law may in fact reward mass evictions as a means to avoid providing relocation assistance or the right of first refusal to residents.

QUESTIONS AND ANSWERS ON INTERIM CONTROLS FOR THE WEST END ATLANTIC CORRIDOR NEIGHBORHOOD

Q: What would the interim controls accomplish?

A: Interim controls in the West End would give the neighborhood and the city a chance to review its existing laws on development and use in the area *before* it is too late and innocent lives are disrupted.

Q: Would the interim controls stop renovations or improvements in the neighborhood?

A: No! The proposal would allow all renovations of existing buildings to proceed. The controls would only put a temporary hold on *new* structures, demolishing existing structures, and the conversion of apartments into condominiums.

Q: Would interim controls do more than just stop certain types of development?

A: Interim controls are not about stopping progress. Interim controls give the city time to plan for the future at precisely when planning is most important—when neighborhoods are in a state of change. Forward-looking planning does not merely keep the status quo. With adequate planning requirements, the approvals of proposals for changes in use can be conditioned on improvements in fire safety, security, parking, and other conditions. But without those policies, changes can occur but merely gloss over or reinforce old problems.

Q: Why aren't existing zoning and land use regulations sufficient to protect the neighborhood?

A: Recent events have demonstrated that the areas near the West End Redevelopment Project are already being hit hard with the spillover effects of redevelopment. The changes in the neighborhood appear to be outpacing what the city anticipated, allowing outside developers to take advantage of loopholes in the law. For example, the city's condominium conversion ordinance imposes conditions to protect seniors, the disabled, and low-income families who live in an apartment at the time of an application to convert to condominiums. But the ordinance fails to impose any equivalent conditions where tenants are evicted *before* the application to convert. The result has been extreme hardship for hundreds of vulnerable residents of Alameda.

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY AMENDING SUBSECTION 3-28.9 (PAYMENT IN-LIEU OF TAXES – (PILOT); ADDING A NEW SUBSECTION 3-28.10 (RETURN ON INVESTMENT IN ENTERPRISE FUNDS) OF SECTION 3-28 (PAYMENT OF TAXES) OF CHAPTER III (FINANCE AND TAXATION) AND ADDING A NEW SUBSECTION 18-4.10 (EXEMPTIONS) OF SECTION 18-4 (SEWER SERVICE CHARGE) OF ARTICLE 1 (SEWERS) OF CHAPTER XVIII (SEWER AND WATER)

BE IT ORDAINED by the Council of the City of Alameda that:

Section 1. The Alameda Municipal Code is hereby amended by amending Subsection 3-28.9 (Payment In-Lieu of Taxes – PILOT) of Section 3-28 (Payment of Taxes) of Chapter III (Finance and Taxation) to read as follows:

3-28.9 Payment In-Lieu of Taxes (PILOT).

City Enterprise Funds shall annually pay one (1%) percent of fixed assets in lieu of taxes. The basis for the tax shall be the value of fixed assets at June 30th of the preceding year for the sewer fund and, for all other enterprise funds, the value of fixed assets as of June 30, 1993 adjusted annually for inflation since that date in the amount of the lesser of 2% or the increase in the Consumer Price Index for All Urban Consumers for the San Francisco Bay Area published by the Bureau of Labor Statistics of the United States Department of Labor or any successor to that index.

Section 2. The Alameda Municipal Code is hereby amended by adding a new Subsection 3-28.10 (Return on Investment in Enterprise Funds) of Section 3-28 (Payment of Taxes) of Chapter III (Finance and Taxation) to read as follows:

3-28.10 Return on Investment in Enterprise Funds.

As permitted by *Hansen v. City of San Buena Ventura*, 42 Cal.3d 1172 (1986), each of the city's enterprise funds, other than the sewer service fund, shall make an annual payment to the General Fund, as a return on the City's investment in the assets of the enterprise fund, of 1% of the value of its fixed assets as of June 30, 2004 adjusted annually for inflation after that date in the amount of the lesser of 2% or the increase in the Consumer Price Index for All Urban Consumers for the San Francisco Bay Area published by the Bureau of Labor Statistics of the United States Department of Labor, or any successor to that index.

Approved as to Form
CITY ATTORNEY

Section 3. The Alameda Municipal Code is hereby amended by adding a new Subsection 18-4.10 (Exemptions) to Section 18-4 (Sewer Service Charge) of Article I (Sewers) of Chapter XVIII (Sewer and Water) thereof to read:

18-4.10 Exemptions.

(a) The sewer service charge is imposed to recover the cost of providing sewer services to those who choose to make use of those services, as evidenced by an active water meter, electric meter, or other evidence of sewer use deemed reliable by the Public Works Director. Any person subject to the charge imposed under this Section may receive a temporary exemption from the sewer service charge imposed by this Section to the extent that he or she can demonstrate to the satisfaction of the Public Works Director that the premises with respect to which the charge is imposed are vacant or, for some other reason, no person made use of sewer services on those premises for at least thirty (30) consecutive days. Evidence that either water or power was not consumed on the premises for that time shall be sufficient evidence of vacancy to justify an exemption for that period of non-use under this subsection.

(b) The Public Works Director may promulgate regulations for the submission, processing, decision, and appeal of such applications for exemption, which regulations shall take effect once published in the manner required by Section 3-14 of the Charter of the City of Alameda for publication of ordinances of the City.

Section 4. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council of the City of Alameda hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases hereof be declared invalid or unconstitutional.

Section 5. To the extent the provisions of the Alameda Municipal Code as amended by this ordinance are substantially the same as the provisions of that Code in effect prior to the adoption of this ordinance, those provisions shall be construed as continuations of those prior provisions and not as new enactments.

Section 6. This ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage as provided in Section 3-12 of the Charter of the City of Alameda.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the ____ day of _____, 2004, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ____ day of _____, 2004.

Lara Weisiger, City Clerk
City of Alameda

CITY OF ALAMEDA ORDINANCE NO. _____
New Series

AMENDING THE ALAMEDA MUNICIPAL CODE BY ADDING
A NEW SECTION 3-91 (CITY OF ALAMEDA COMMUNITY
BENEFIT ASSESSMENT PROCEDURE CODE) TO ARTICLE VI
(CITY OF ALAMEDA IMPROVEMENT PROCEDURE CODE) OF
CHAPTER III (FINANCE AND TAXATION)

WHEREAS, it is in the public interest to promote the economic revitalization and physical maintenance of the City's business districts in order to create jobs, attract new businesses, and prevent the erosion of the business districts; and

WHEREAS, budgetary constraints prevent the City from providing all of the additional public services and improvements requested by or desirable to the stakeholders within each of the City's business districts; and

WHEREAS, the City Council desires to establish a procedure by which property owners in a business district may petition the City Council to initiate proceedings to establish a community benefit district within which the City will levy and collect assessments against real property and/or businesses to finance services and improvements requested by stakeholders; and

WHEREAS, the City Council desires to establish procedures for the establishment and operation of such districts in order to promote the successful implementation of such districts.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Alameda that:

Section 1. The Alameda Municipal Code is hereby amended by adding a new Section 3-91 (City of Alameda Community Benefit Assessment Procedure Code) to Article VI (City of Alameda Improvement Procedure Code) to Chapter III (Finance and Taxation) to read:

3-91 CITY OF ALAMEDA COMMUNITY BENEFIT ASSESSMENT PROCEDURE CODE

3-91.1 Title/Purpose.

This Section shall be known as the "City of Alameda Community Benefit Assessment Procedure Code" and shall be referred to in this section 3-91 as the "Assessment Procedure."

3-91.2. Relationship to Other Laws.

a. This Assessment Procedure is adopted pursuant to Section 1-2(D) of Article I of the Charter of the City of Alameda.

any change in an assessment formula. Any appeal from a final judgment in the action or proceeding shall be perfected within thirty (30) days after the entry of judgment.”

Section 2. If any section, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining sections, sentences, clauses, phrases, or portions of this Ordinance shall nonetheless remain in full force and effect. The City Council hereby declares that it would have adopted each section, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

Section 3. This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk
City of Alameda

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the _____ day of _____, 2005, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this _____ day of _____, 2005.

Lara Weisiger, City Clerk
City of Alameda